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Laws of the territory of New Mexico.

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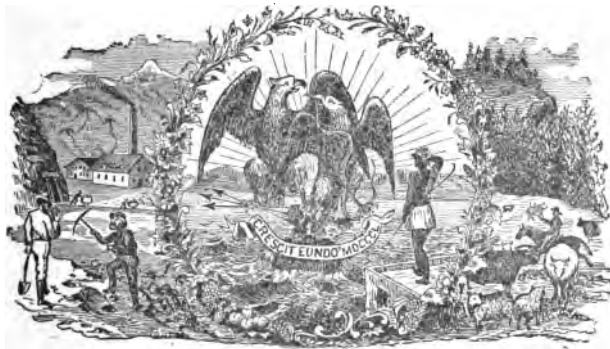
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1891.
ACTS
OF THE
LEGISLATIVE ASSEMBLY,
OF THE
Territory of New Mexico,
TWENTY-NINTH SESSION.

Convened at the Capitol, at the City of Santa Fe, on
Monday, the 29th day of December, 1890, and
Adjourned on Thursday, the 26th
day of February 1891.



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Prepared for Publication by—

BENJAMIN M. THOMAS,

Secretary of the Territory.

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SANTA FE, N. M.:
NEW MEXICAN PRINTING COMPANY.
1891.

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In the preparation of the following laws for publication, the text of the original enrolled acts has been scrupulously followed. Any seeming errors, therefore, must be attributed to the originals, and not to the preparation for publication. Obvious errors affecting the sense or design of the original have been corrected, so far as practicable by the insertion of proper words in brackets “[].”

BENJAMIN M. THOMAS,

Secretary of the Territory.

Santa Fe, May, 1891.

OFFICIAL REGISTER.

TERRITORIAL OFFICERS.

Governor.....	L. BRADFORD PRINCE.
Secretary.....	BENJAMIN M. THOMAS.
Solicitor General.....	EDWARD L. BARTLETT.
Auditor.....	DEMETRIO PEREZ.
Treasurer.....	RUFUS J. PALEN.
Superintendent of the Penitentiary.....	J. FRANCISCO CHAVEZ.
Superintendent of Public Instruction.....	AMADO CHAVEZ.
Librarian.....	FACUNDO F. PINO.
Adjutant General.....	WINFIELD S. FLETCHER.

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Chief Justice of the Supreme Court and Judge of the Fourth District, composed of San Miguel, Mora and Colfax counties.....	JAMES O'BRIEN.
District Clerk.....	M. A. OTERO.
Clerk of the Supreme Court.....	H. S. CLANCY.

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Judge of the First District, composed of Santa Fe, Taos, Rio Arriba and San Juan counties.....	EDWARD P. SEEDS.
District Clerk.....	A. E. WALKER.
Judge of the Second District, composed of Bernalillo and Valencia counties.....	WILLIAM D. LEE.
District Clerk.....	CHARLES F. HUNT.
Judge of the Third District, composed of Dona Ana, Grant and Sierra counties.....	JOHN R. McFIE.
District Clerk.....	A. L. CHRISTY.
Judge of the Fifth District, composed of Lincoln, Chaves, Eddy and Socorro counties.....	ALFRED A. FREEMAN
District Clerk.....	J. W. GARNER.

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HON. ANTONIO JOSEPH.

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For the counties of San Miguel and Mora.....	LEWIS C. FORT.
For the counties of Lincoln, Chaves and Eddy.....	WILLIAM A. HAWKINS.

For the counties of Colfax and Taos.....	MELVIN W. MILLS.
For the county of Dona Ana.....	SIMEON B. NEWCOMB.
For the counties of Santa Fe, Rio Arriba and San Juan.....	RALPH E. TWITCHELL.
For the counties of Bernalillo and Valencia.....	WILLIAM H. WHITEMAN.
For the county of Socorro.....	WINFIELD S. WILLIAMS.

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Collector Internal Revenue.....	LEVI A. HUGHES.
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Receiver Land Office, Santa Fe.....	WILLIAM M. BERGER.
Register Land office, Las Cruces.....	S. P. MCREA.
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Register Land Office, Roswell.....	W. S. COBEAN.
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Navajo Indian Agent, Gallup.....	DAVID L. SHIPLEY.
Mescalero Agent, Mescalero.....	HINMAN RHODES.

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J. FRANCISCO CHAVEZ.....	Los Lunas.....	Valencia.
MATIAS CONTRERAS.....	La Joya.....	Socorro.
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THEODORE B. MILLS.....	Las Vegas.....	San Miguel.
PEDRO PEREA.....	Bernalillo.....	Bernalillo.
GRANVILLE A. RICHARDSON.....	Roswell.....	Lincoln, Chaves and Eddy.
JUAN SANTISTEVAN.....	Fernandez de Taos.....	Taos.
ELIAS S. STOVER.....	Old Albuquerque.....	Bernalillo.
NARCISO VALDEZ.....	Ocate.....	Mora.
ERMENEJILDO VIGIL.....	Pecos.....	San Miguel.

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JOSE BACA Y BARELA.....	Tome.....	Valencia.
WILLIAM BURNS.....	Kingston.....	Dona Ana, Grant and Sierra.
MELQUIADES CHAVEZ.....	Old Albuquerque.....	Bernalillo.
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ALBERT B. FALL.....	Las Cruces.....	Dona Ana, Grant and Sierra.
THOMAS P. GABLE.....	Santa Fe.....	Santa Fe.
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LOUIS F. GARCIA.....	Tramperas.....	Mora.
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DIONICIO SANCHEZ.....	La Cueva.....	Mora.
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CANUTO TORRES.....	Socorro.....	Socorro.
JAMES H. WALKER.....	Raton.....	Colfax.
HENRY J. YOUNG.....	Cerro.....	Taos.

The following claimants of seats in the House were unseated:

MEMBERS.	POST OFFICE.	DISTRICTS BY COUNTIES.
JOSEPH B. MAYO	Golden	Santa Fe.
BENJAMIN M. READ	Santa Fe	Santa Fe.
JOHN H. YOUNG.....	Cerro.....	Taos.

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Enrolling and Engrossing Clerk.....	CHARLES C. SHIRK.
Sergeant-at-Arms and Door Keeper	GEORGE G. GANS.
Messenger	TOMAS GONZALES.
Watchman.....	FELIPE MARES.
Chaplain	REV. GEORGE G. SMITH.

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Translator.....	CLARENCE KEY.
Assistant Translator.....	GUADALUPE OTERO.
Assistant Chief Clerk.....	HUGH O. MORRISON.
Assistant Enrolling and Engrossing Clerk.....	V. S. MIERA.
Assistant Sergeant-at-Arms	FLORENCIO SANDOVAL.
Assistant Door Keeper.....	BENEDITO NARANJO.
Journal Clerk.....	CHARLES A. SPIESS.
Committee Clerk.....	ANTONIO LUCERO.
Committee Clerk.....	SIMON NUSBAUM.
Committee Clerk	MALAGUIAS MARTINEZ.
Committee Clerk	MAXIMIANO ROMERO.
Committee Clerk	H. S. CLANCY.
Assistant Enrolling and Engrossing Clerk.....	MARY E. MILLS.
Assistant Journal Clerk.....	I. M. BOND.
Page	ISMAEL ESQUIBEL.
Page	GUS O'BRIEN.
Page	GUS WARNING.

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Chief Clerk	FILADELFO BACA.
Enrolling and Engrossing Clerk.....	BERNARDINO B. BACA.
Sergeant-at-Arms and Door Keeper.....	GEORGE W. STONERROAD
Messenger.....	NESTOR SENA.
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Copying Clerk.....	ANNA WALKER.
Clerk Finance Committee.....	ESTANISLAO PINO.
Clerk Penitentiary Committee.....	R. C. DOUGHERTY.
Clerk Judiciary Committee.....	MELITON TORREZ.
Porter	ANTONIO LUCERO Y GIRON.
Page.....	PABLO DELGADO.
Page.....	THOMAS P. GABLE, Jr.
Page.....	ALFRED LUCERO.
Page.....	FRED McCABE.

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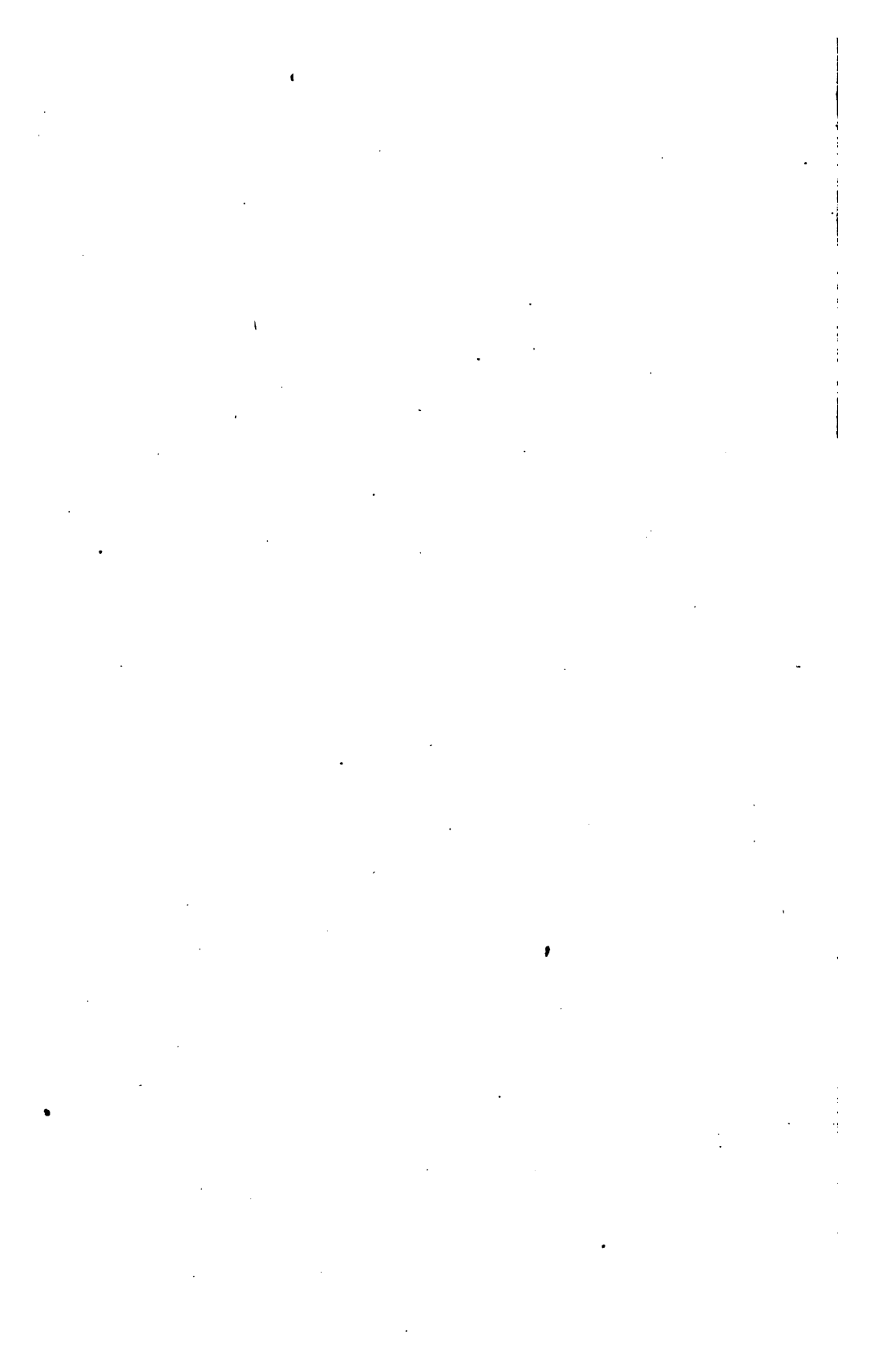
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LAWS OF NEW MEXICO.

TWENTY-NINTH LEGISLATIVE ASSEMBLY, 1891.

CHAPTER I.

AN ACT TO PROVIDE FOR THE PLACING OF SHELVES AND PIGEON HOLES IN THE VAULT OF THE COUNCIL, AND ALSO THE VAULT OF THE HOUSE OF REPRESENTATIVES, AND FOR OTHER PURPOSES. *C. B. 43; Approved January 16, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

First. That the chief clerk of the Council and the chief clerk of the House of Representatives be and are hereby authorized and directed to have suitable shelves and pigeon holes placed in their respective vaults, for the purpose of filing papers and storing stationery of the Council and the House of Representatives.

Second. That the clerk of each house shall draw a voucher upon the Auditor of the Territory of New Mexico for the payment of the same, in a sum not to exceed thirty-five dollars for each vault so shelved and pigeon-holed.

Third. That the Auditor of the Territory of New Mexico, shall, upon the presentation of the said vouchers properly signed by the clerks of the House and Council, draw his warrant for the sums named therein upon the Territorial Treasurer of New Mexico, who is hereby authorized and directed to pay the same out of the general funds of the Territory not otherwise appropriated.

Fourth. That this act shall take effect and be in full force immediately after its passage.

CHAPTER II.

AN ACT REPEALING AN ACT OF THE 28TH LEGISLATIVE ASSEMBLY OF THE TERRITORY OF NEW MEXICO, ENTITLED "AN ACT PROVIDING FOR THE INSPECTION OF LIVE ANIMALS INTENDED FOR HUMAN FOOD, AND PROHIBITING THE SALE OR USE OF THE UNCURED MEAT OF UNINSPECTED BOVINE CATTLE AND HOGS, AND THE SALE OF IMPROPER FRESH MEATS." *H. B. 31; Approved January 21, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That an act entitled "An Act providing for the inspection of live animals intended for human food, and prohibiting the sale or use of the uncured meat of uninspected bovine cattle and hogs, and the sale of improper fresh meats," which became a law by limitation Feb. 28, 1889, be and the same is hereby repealed, in all its parts and provisions.

SEC. 2. That this act shall be in force from and after its passage.

CHAPTER III.

AN ACT RELATING TO CONDEMNATION OF PRIVATE PROPERTY BY MUNICIPAL CORPORATIONS. *H. B. 17; Approved January 23, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That municipal corporations shall have the power and right of condemnation of private property for public use in the following cases, to-wit:

For the laying out, opening and widening of streets and alleys and highways or approaches to streets; and for the construction, maintenance and operation of sewers, drains, water

works and gas works, both within their corporate limits and for a distance of two miles outside of the same.

SEC. 2. That proceedings to obtain such condemnation shall be in all respects as provided by an act entitled "An Act in relation to roads, streets and highways," being Chapter 121 of Acts of the Legislative Assembly of 1889, except that any such corporation may be the sole petitioner, and the commissioners shall be freeholders of the precinct or precincts in which the property sought to be condemned is situated; and they are to be selected, one by the petitioning corporation, one by the owner, one by the court; and upon proper payment by the said corporation of the damages assessed, the court shall order and direct that the property, or so much thereof as may be necessary, shall be set apart to the use of the petitioning corporation.

SEC. 3. That all acts and parts of acts in conflict with this act are hereby repealed, and this act shall go into effect from and after its passage.

CHAPTER IV.

AN ACT PROVIDING FOR GUIDE BOARDS UPON PUBLIC ROADS.
H. B. 11; Approved January 28, 1891.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Every road supervisor in the several counties in this Territory shall erect and put up at the forks of every public road and every crossing of county roads within his precinct a guide or finger board containing an inscription in legible letters directing the way and specifying the distance to the next town or public place situated on each road respectively: *Provided*, That not more than fifty dollars be spent for this purpose in each county; and any person who shall destroy, deface or remove any such guide or finger board shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars.

SEC. 2. The cost of making and putting up such guide or

finger boards shall be paid by the county in the same manner as other charges against the county are paid.

SEC. 3. All fines collected under the provisions of this act shall be paid to the county treasurer for the benefit of the public roads and highways in such county.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER V.

AN ACT TO REPEAL CHAPTER 107 OF THE SESSION LAWS OF 1889 RELATING TO FENCES IN SPECIAL CASES. *C. B. 77; Approved January 31, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Chapter 107 of the Acts of the Legislative Assembly of the Territory of New Mexico of the twenty-eighth session, entitled, "An Act to compel persons, companies, or corporations cultivating or irrigating lands by means of water raised or pumped from wells, and in other ways, to inclose the same with a fence, and for other purposes," is hereby repealed.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHAPTER VI.

AN ACT TO REPEAL SECTION 1140, TITLE 12, OF THE COMPILED LAWS OF 1884 OF THE TERRITORY OF NEW MEXICO. *C. B. 50; Approved January 31, 1891.*

Be it enacted by the Legislative Aseembly of the Territory of New Mexico:

SECTION 1. That section 1140, title 12, of the Compiled Laws

of 1884 of the Territory of New Mexico, relating to elections, be and the same is hereby repealed.

SEC. 2. This act shall take effect and be in force from and after April 1, 1891.

CHAPTER VII.

AN ACT AMENDING CHAPTER 52 OF THE SESSION LAWS OF 1887.
C. B. 56; Approved January 31, 1891.

CONTENTS.

SECTION 1. Justices of the peace before entering upon official duties shall execute an official bond.

SEC. 2. Bond shall be signed by two sureties, who shall justify and shall be approved by and filed with the probate judge.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 1 of an act entitled, "An Act to require justices of the peace to execute official bonds," be and the same is hereby amended to read as follows: That every justice of the peace shall, before he enters upon the duties of his office, execute a bond to the Territory in the sum of five hundred dollars, before either a notary public, the probate judge, or the probate clerk of his county, conditioned, in substance, that he will well and faithfully perform each and all his duties as justice of the peace during his term of office, and until his successor is qualified, and will promptly, according to law, pay over to the person or persons entitled thereto, all moneys that may come to his hands by virtue of his office; and that he will keep and preserve all records, books, papers, and other property appertaining to his said office and deliver the same to his successor when qualified.

SEC. 2. That section 2 of the act above mentioned be and the same is hereby amended to read as follows: Such bond shall be executed by the person proposing to qualify as justice of the peace, together with at least two sureties, resident of the county, who shall together be worth in their own respective rights, over and above their exemptions and liabilities, the amount of the bond, and each of said sureties shall be required to justify as to

their property before either a notary public, the probate judge or the probate clerk, in the same manner as sureties on other bonds are now required by law to justify.

Said bond shall be approved by and filed before the probate judge of the county, wherein each justice of the peace qualifies, and said bond shall be preserved among the other records of the office of the probate judge.

Certified copies of said bond shall be evidence in all courts of the Territory and may be sued upon, from time to time, by any person injured by any violations of the provisions thereof.

SEC. 3. This act shall be in full force and effect from and after its passage.

CHAPTER VIII.

AN ACT TO PROVIDE FOR THE PRINTING OF BILLS, REPORTS, DOCUMENTS, ETC., IN THE SPANISH LANGUAGE. *C. B. 62; Approved January 31, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The Secretary of the Territory is hereby directed to have printed in the Spanish language such bills, rules, reports and documents as may be ordered printed in the Spanish language by the Legislative Assembly, or either branch thereof, and all such bills, rules, reports, documents, etc., to be bound in a suitable manner.

SEC. 2. The cost of the above work and any necessary expense incidental thereto shall be defrayed from the miscellaneous fund now in the Territorial treasury. The Secretary of the Territory shall certify the bills for the work directed to be done in the first section of this act, to the Auditor, who shall draw his warrant upon the Territorial Treasurer for the amount of such bills so certified.

SEC. 3. This act shall be in force and take effect from and after its passage.

CHAPTER IX.

AN ACT LICENSING THE SALE OF INTOXICATING LIQUORS AND REGULATING THE SAME. *C. B. 5; Approved February 2, 1891.*

CONTENTS.

- SECTION 1. Application for license.
SEC. 2. License fee graded according to population.
SEC. 3. License shall issue for twelve months, paid in advance, and turned over to the school fund. Penalty.
SEC. 4. Misdemeanor to sell liquor without license. Penalty.
SEC. 5. License not good for more than one saloon.
SEC. 6. Sale of liquor to habitual drunkards or minors a misdemeanor. Penalty.
SEC. 7. Any place where liquor is disposed of in violation of this act declared a nuisance, subject to abatement as other nuisances.
SEC. 8. Giving away liquors or other evasion of the law deemed an offense subject to punishment as in Section 4 or 7.
SEC. 9. Intoxication subject to penalty upon conviction.
SEC. 10. Licenses under laws now in force shall expire the first Monday in May. Money on unexpired licenses refunded.
SEC. 11. U. S. census 1890 shall govern as to population. No division of a precinct as they now exist will entitle an applicant to a lower rate for license.
SEC. 12. License fee when saloon shall be near the line of two precincts.
SEC. 13. "Retail Liquor Dealer" defined.
SEC. 14. License may be transferred.
SEC. 15. Druggists' prescriptions. Liquor not to be drank on the premises.
SEC. 16. Manufacture and sale of beer, cider, wine or brandy made from native productions, when sold on the premises, not subject to license.
SEC. 17. No license shall issue within sixty days of any general election. No sale allowed on election day. Penalty.
SEC. 18. Repeals laws in conflict. Old laws remain in force for the purpose of prosecuting violations.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Before a dram shop license, hotel license, grocery license, or license for druggists or for any other place or house or person to vend, retail or sell malt, spirituous or vinous liquors within this Territory, shall be granted to any person or persons applying for the same, if the applicant for such license proposes to use the same outside the limits of any incorporated town or city, said applicant shall apply for such license as is provided by section two (2) of this act, to the board of county commissioners of the county; if the applicant proposes to use such license within the limits of any incorporated town or city, then application for license shall be made to the mayor, city or

town council, or city or town trustees: *Provided*, That nothing in this act shall be construed to prevent the mayor, city or town council, or city or town trustees of such incorporated city or town from requiring an additional license from such applicant under the articles of incorporation or ordinances of such city or town.

SEC. 2. Upon every license granted under the provisions of this act for the retail sale of malt, vinous and spirituous liquors there shall be collected before such license is issued a tax as follows, viz: for such license to do business in a precinct, village or town without the limits of any village, town or city having not more than five hundred inhabitants, and in such town or city having not more than five hundred inhabitants, one hundred dollars; in a precinct, village, town or city of not less than five hundred and not more than one thousand inhabitants, two hundred dollars; in a precinct, village, town or city having more than one thousand inhabitants, four hundred dollars.

SEC. 3. Every license herein provided for shall be issued for the period of twelve months by the clerk of the board of county commissioners, upon order of such board, or by the city or town clerk or recorder, upon order of the mayor, city or town council or board of trustees, as the case may be, and shall by such clerk or recorder be turned over to the applicant for said license upon the payment of said license fee by said applicant into the hands of the county treasurer, to be covered into the general school fund of the county: *Provided*, That any officer who shall deliver to the applicant any such license until the tax thereon has been paid as herein provided, shall forfeit to the said school fund double the amount of said license, to be recovered upon the official bond of said officer.

SEC. 4. Any person who shall carry on the business of retail liquor dealer or who shall sell or attempt to sell any spirituous, malt or vinous liquors without having first obtained a license as in section two (2) hereof provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not less than one hundred dollars and not more than five hundred dollars, or by imprisonment for not less than thirty days and not more than one year, in the discretion of the court.

SEC. 5. Licenses provided for in this act shall not authorize a person receiving the same to sell, vend or give away liquors in

more than one place in such precinct, village, town or city, as the case may be.

SEC. 6. Any person who shall, directly or indirectly, or by means of any machine, or in any other manner, knowingly sell, barter or give away any intoxicating liquor to any person who is in the habit of becoming intoxicated, after notice shall have been given by the wife, parent, brother, sister or child of such person last mentioned, or by any civil officer charged with the care or custody of such person, or who shall so dispose of such liquor to any person when intoxicated, or to any minor without the consent of his or her parent or guardian, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment for not less than ten days nor more than sixty days, or by both such fine and imprisonment, in the discretion of the court.

SEC. 7. Any place where liquor is sold or in any way disposed of in violation of this act, is hereby declared to be a public nuisance, and shall be abated as such upon information or complaint filed before any court of competent jurisdiction.

SEC. 8. Giving away intoxicating liquors, or any other shift or device to evade the provisions of this act, shall be deemed an offense, and shall be punished as provided for in section 4 or section 7 hereof, as the case may be.

SEC. 9. It shall be unlawful for any person to become intoxicated or disorderly, and any person found in such state shall upon conviction thereof before a justice of the peace be fined in a sum of not less than five dollars and not more than twenty-five dollars.

SEC. 10. All licenses issued under the laws now in force in this Territory shall expire on the Saturday next preceding the first Monday of May, 1891: *Provided, however,* That any person who has taken out license prior to the 1st Monday of May, 1891, the term of which has not expired, may have the amount for such unexpired term refunded by applying to the county commissioners, mayor of the city, common council or board of trustees.

SEC. 11. The United States census of 1890 shall govern as to population provided for in section 2, of this act, until such time as the county commissioners or mayor, town or city council or town or city trustees, may have a new census taken for pre-

cincts, or towns, villages or cities: *Provided*, That this act shall apply to subdivisions as they now exist and no division of a precinct shall entitle the inhabitants thereof to a lower rate of license after such division.

SEC. 12. Whenever under the provisions of this act application is made for license for retail liquor dealer in any precinct, town or village, unincorporated, and the place of business of said liquor dealer is to be situated within one thousand yards of the line or lines of any other adjoining precinct or precincts, then the total population of the adjoining precinct or precincts is to be added to the population of the precinct in which said business is to be prosecuted, for the purpose of grading the license as provided for in section 3, and the said license shall be issued upon such total population of such said precincts.

SEC. 13. "Retail Liquor Dealer," within the provisions of this act, shall be construed to mean one dealing in malt, spirituous or vinous liquors in quantities of not more than $4\frac{7}{8}$ gallons to any one person at any one time.

SEC. 14. Any person having procured a license under the provisions of this act can dispose of the same to any other persons to be used only for the time not expired and in the same precinct, town, village or city for which the same was issued, and at the same place of business.

SEC. 15. *Provided*, That nothing in this act shall be construed so as to tax druggists for selling liquors in quantities less than one quart when sold to fill a prescription made in writing (not printed) by a regular physician and that a separate prescription shall be received and filed by the druggists for each sale made, not to be drank at the place of sale or upon the premises where sold.

SEC. 16. Nothing in this act shall be construed to prevent the manufacture, brewing and distilling and sale without license upon premises where manufactured, brewed or distilled in quantities of not less than one quart, of beer, cider, or brandy from apples, brandy from peaches, wine or brandy from grapes, currants or other fruits grown in this Territory.

SEC. 17. No license shall be issued under the provisions of this act during a period of not less than sixty days prior to any general election, and every liquor dealer shall close his place of business and not sell or allow to be sold, give away or allow to be given away, any intoxicating liquors from his said place of

business, from the hour of twelve o'clock, mid-night last before the day of any general election, until the hour of twelve o'clock mid-night upon such day of election, and shall keep his said place of business closed between said hours, and any such liquor dealer, his or her agent, violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five nor more than five hundred dollars, or be imprisoned for not less than twenty days nor more than one year, in the discretion of the court.

SEC. 18. All acts and parts of acts pertaining to the sale of intoxicating liquors and the licensing of same in conflict with this act are hereby repealed: *Provided*, That said laws shall remain in force for the purpose of prosecuting all crimes and offenses against the same prior to the first Monday of May, 1891, and shall remain in force for such purpose until such prosecutions are concluded and the punishment imposed executed.

SEC. 19. This act shall take effect and be in force from and after the first Monday of May, 1891.

CHAPTER X.

AN ACT DECLARING CERTAIN TRUSTS, POOLS AND COMBINATIONS ILLEGAL, AND PROVIDING FOR THE PUNISHMENT THEREOF. *C. B. 8; Approved February 4, 1891.*

CONTENTS.

SECTION 1. Every contract or combination which shall operate to restrict or control production, price or exchange is illegal. Declared a misdemeanor. Penalty.

SEC. 2. Monopoly a misdemeanor. Penalty.

SEC. 3. Contracts in violation of sections 1 and 2 void, and vendee not liable.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Every contract or combination between individuals, associations or corporations, having for its object or which shall operate to restrict trade or commerce or control the quantity, price or exchange of any article of manufacture or product of the soil or mine, is hereby declared to be illegal.

Every person, whether as individual or agent or officer

or stockholder of any corporation or association, who shall make any such contract or engage in any such combination, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars nor less than one hundred dollars, and by imprisonment at hard labor not exceeding one year, or until such fine has been paid.

SEC. 2. Every person who shall monopolize or attempt to monopolize, or combine or conspire with any other person or persons to monopolize any part of the trade or commerce of this Territory, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or by both said punishments in the discretion of the court.

SEC. 3. All contracts and agreements in violation of sections 1 and 2 of this act shall be void, and any purchaser of any commodity from any individual, corporation or association transacting business in violation of this act shall not be liable for the payment for such commodity.

SEC. 4. This act shall take effect and be in force from and after its passage and publication three times in the "Daily New Mexican."

CHAPTER XI.

AN ACT MAKING AN APPROPRIATION FOR THE ARREST AND CONVICTION OF THE PERSONS CONCERNED IN THE SHOOTING AND WOUNDING OF HON. J. A. ANCHETA. *C. B. 122; Approved February 6, 1891.*

WHEREAS, On the night of February 5, 1891, the Hon. J. A. Ancheta, a member of the Legislative Council of the Territory of New Mexico, was brutally and foully shot by some parties unknown, while in the discharge of his duties as a member of the judiciary committee of the Council, and whereas the said persons who attempted said assassination are now at large; therefore,

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That the Governor of New Mexico be and he is

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hereby requested and directed to offer a reward for the apprehension of the persons who shot and attempted to murder Hon. J. A. Ancheta on the evening of February 5, 1891, in the amount of ten thousand dollars, or five thousand dollars for each and every one of them, including any person implicated in or who instigated the same, to be paid out of any moneys in the treasury. Said Governor is also hereby authorized and directed to employ competent persons to ferret out and detect the said persons who attempted or instigated said attempted murder, for which purpose the sum of ten thousand dollars is hereby appropriated, to be paid out of any money in the treasury on the certificate of the Governor and warrant of the Auditor.

SEC. 2. This act shall be in force and effect from and after its passage.

CHAPTER XII.

AN ACT TO PROVIDE FOR THE ISSUANCE OF COUNTY CURRENT EXPENSE BONDS IN THE TERRITORY OF NEW MEXICO. C. B. 55; Filed in Secretary's office February 6, 1891.

*289 pp 141-2
146 pp 41 this book*

CONTENTS.

- SECTION 1. County commissioners authorized to issue coupon bonds not to exceed \$7,000 for current expenses.
- SEC. 2. Denomination and when payable.
- SEC. 3. How executed, form. Shall be registered and how sold.
- SEC. 4. Tax levy for interest.
- SEC. 5. A sinking fund provided after fifteen years. Redemption.
- SEC. 6. Such bonds shall not issue when the indebtedness of a county exceeds 4 per cent of its assessed valuation.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That the county commissioners of the respective counties of the Territory of New Mexico are hereby authorized and empowered to issue coupons bonds for county current expenses, not to exceed seven thousand dollars in each county: *Provided*, That nothing in this act shall be construed so as to authorize the county commissioners of any county to use the proceeds of the sale of any current expense bonds for the purpose of building any court house or jail.

SEC. 2. Any and all bonds issued under the provisions of this act shall be of the denomination of one hundred dollars each, or some multiple thereof, and shall bear interest at a rate of six per cent per annum, payable semi-annually on the first days of January and July of each year; both principal and interest shall be payable at the office of the county treasurer of such county issuing such bonds, or at such place as the county commissioners may designate, and all such bonds shall be payable at the option of the county commissioners issuing the same in fifteen years, and absolutely due and payable thirty years after the date thereof.

SEC. 3. All bonds issued under the provisions of this act shall be numbered consecutively, beginning with number one, and shall be signed by the chairman of the board of county commissioners and attested by the probate clerk under the seal of the county.

The county commissioners shall prescribe the form of such bonds and fix the date thereof, and all coupons shall be signed by the chairman of the board of county commissioners and by the treasurer of such county; and the coupons attached to each bond shall bear the same number as the bond to which they are attached, and shall show the date of maturity of such coupon bonds; the commissioners shall also provide a book and shall cause to be registered therein, in the order in which they are issued, the number, date, and amount of each bond so issued, the time when the same shall become due, together with the name of the person to whom issued, and a description of the bond; such bonds shall be disposed of as follows, viz:

The board of county commissioners shall advertise for the bids for said bonds and shall sell the same to the party or parties making the highest bids therefor: *Provided*, That no bonds issued under this act shall at any time be sold for a less sum than ninety-five cents (95 cts.) on the dollar.

SEC. 4. It shall be the duty of the county commissioners of any county issuing bonds under the terms of this act, to levy each year, at the time and in the same manner of making the levy of other taxes, to be assessed and collected as other taxes are assessed and collected, a tax sufficient in amount to pay the interest on said bonds so issued for each year; such tax shall be kept separate from the taxes levied for other county purposes, and shall be payable in money, and shall be devoted exclusively to the payment of such interest.

SEC. 5. After the expiration of fifteen years from the date

of said bonds, the same not having been paid by the counties issuing bonds under this act, and annually thereafter until paid, the county commissioners of each county shall provide a sinking fund for the payment of said bonds, by taxation, and levy a tax for that purpose, equal to at least ten per centum and not more than twenty per centum of such bonds. All bonds shall be called for redemption in the order of their number, beginning with number 1.

SEC. 6. No counties shall issue bonds under the provisions of this act the total indebtedness of which is in excess of four per centum of the assessed valuation of the property therein.

SEC. 7. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect and be in force on and after its passage.

CHAPTER XIII.

AN ACT REGULATING THE ADMISSION OF CHURCH RECORDS IN EVIDENCE FOR CERTAIN PURPOSES. *H. B. 82; Approved February 10, 1891*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. Hereafter all church records purporting to show the date of the birth and baptism, marriage or death of any person shall be received as *prima facie* evidence of such facts so shown thereby, in all the courts of this Territory: *Provided*, That such records shall be, first, more than thirty years old; second, shall come from the proper custody; and third, shall be examined and inspected by the court, and upon such examination and inspection shall be found by the court to be free from all suspicion of fabrication, alteration or fraud of any kind: *And provided further*, That evidence shall be admitted or allowed in rebuttal thereof.

SEC. 2. This act shall be in force and effect from and after its passage.

CHAPTER XIV.

AN ACT TO AMEND SECTION 1608 COMPILED LAWS 1884. *H. B.*
28; *Approved February 10, 1891.*

CONTENTS.

SECTION 1. Upon petition and taking census and having requisite population, may organize city or town corporation. Area. Expense of taking census.

Be it enacted by the Legislative Assembly of the Territory of New Mexico

SECTION 1. That section 1608 of the Compiled Laws of 1884, entitled "Municipal Corporations," is hereby amended by striking out the words "three hundred" in the fifth line and inserting the words "two hundred;" also by striking out the words "two thousand" in the twenty-fourth and twenty-fifth lines, and inserting the words "fifteen hundred," so that said section when amended shall read as follows, viz:

Section 1608. When the inhabitants of any part of any county not embraced within the limits of any city or incorporated town shall desire to be organized into a city or incorporated town, they may apply by petition in writing, signed by not less than two hundred of the qualified electors permanent residents of the territory, to be embraced in the proposed city or incorporated town, and who have at the time of presenting such petition resided therein not less than six months, to the board of county commissioners of the proper county, which petition shall describe the territory proposed to be embraced in such city or incorporated town, which shall not exceed one and one-half miles either in length or breadth at the time of incorporating, and shall have annexed thereto an accurate description and map or plat thereof, and state the name proposed for such city or incorporated town, which said petition, description and map or plat shall be filed in the office of the clerk of the probate court, and upon the receipt of said petition, if properly signed, the said board of county commissioners shall order the sheriff of the county to take an accurate census of all the permanent residents who have resided in such limits not less than six months prior thereto, and return the same to the said board on lists, which return must also be filed in the office of the clerk

of the probate court; and no corporation shall be allowed to be formed unless the number of such inhabitants shall exceed fifteen hundred: *Provided*, That portions of country containing three thousand inhabitants within an area of three miles square may embrace within the limits of the proposed incorporated city or town three miles square, and where the number of inhabitants amounts to five thousand, such city or town may embrace within its limits six miles square: *Provided further*, That such cities or towns shall be in rectangular form, and the width thereof shall be at least two-thirds as great as the length thereof: *And provided further*, That the petitioners provided for in this section shall deposit or cause to be deposited with the treasurer of the county sufficient funds out of which to pay the expense of making such census or enumeration, and no county shall be responsible for any portion of the expense of taking such census or enumeration.

SEC. 2. That all acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER XV.

AN ACT TO PROVIDE FOR THE PURCHASE OF SCHOOL BOOKS FOR THE INMATES OF THE TERRITORIAL PENITENTIARY. *C. B. 27; Approved February 10, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The sum of one hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the territorial treasury not otherwise appropriated, for the purchase of school books for the inmates of the Territorial Penitentiary: *Provided*, The warden shall cause such convicts as can not read to be instructed in the principles of reading, writing, and arithmetic.

SEC. 2. The Auditor of the Territory is hereby authorized to draw his warrant on the Treasurer of the Territory for the purposes and amount specified in this act, or so much thereof as may

be necessary, upon the written request of the Governor of the Territory: *Provided*, That the Board of Penitentiary Commissioners shall be authorized to purchase the books and deliver them to the Superintendent of the Penitentiary.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHAPTER XVI

AN ACT PROVIDING FOR THE PAYMENT OF EXPENSES INCURRED DURING THE SICKNESS OF THE HON. J. A. ANCHETA, A MEMBER OF THIS LEGISLATIVE COUNCIL. *C. B. 123; Approved February 10, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That the sum of one thousand dollars, or so much thereof as may be necessary, be appropriated out of any funds existing in the treasury of New Mexico, for the maintenance, assistance and necessary expenses incurred during the sickness of Hon. J. A. Ancheta.

SEC. 2. This act shall be in force and effect from and after its passage.

CHAPTER XVII.

AN ACT AMENDING "AN ACT IN RELATION TO THE ELECTION OF JUSTICES OF THE PEACE, AND FOR OTHER PURPOSES." *Approved February 28, 1889. C. B. 19, 24, H. B. 63; Approved February 10, 1891.*

CONTENTS.

SECTION 1. Precinct officers shall be elected first Monday in January and enter upon their duties first Monday in February. Mayordomos of acequias elected under Chapter 113 Laws of 1889.

SEC. 2. Terms of office.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 1 of an act entitled "An Act in relation to the election of justices of the peace, and for other purposes," being Chapter 113 of the Session Laws of 1889, be and the same is hereby amended to read as follows: "Hereafter all justices of the peace, constables, and school directors shall be elected on the second Monday in January of every other year, and shall enter upon the duties of their office on the first Monday of February following their elections, and hold the same for two years thereafter, unless sooner removed for cause;" and mayordomos of acequias shall be elected as provided by law prior to the passage of said Chapter 113, hereby amended. *cf. p. 51*

SEC. 2. That section 2. of the act mentioned in the foregoing section be and the same is amended to read as follows: "The term of office of justices of the peace, constables and school directors elected to their respective offices on the second Monday of January, A. D. 1891, shall expire on the 1st day of February, A. D. 1893."

SEC. 3. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall be in full force and effect from and after the 1st day of May, 1891.

CHAPTER XVIII.

AN ACT TO AMEND AN ACT OF THE TWENTY-SEVENTH LEGISLATIVE ASSEMBLY, SECTION 2, CHAPTER LXXI, ENTITLED, "AN ACT RELATIVE TO PRACTICE IN THE SUPREME COURT." C. B. 82; *Approved February 10, 1891.*

CONTENTS.

SECTION 1. Calendar shall show the day upon which each case is set for hearing.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 2 of said act be amended so that it shall read as follows:

"Said calendar shall show the day upon which each case is set

for hearing and shall also show in a separate list the cases set for each day of the term, and said clerk is hereby authorized and directed to set for hearing on some particular day each case pending in said court, unless otherwise directed by counsel for both of the opposing parties; and the setting of such cases for hearing shall be in the order in which such cases have been docketed in said Supreme Court."

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in force and take effect on and after its passage.

CHAPTER XIX.

AN ACT TO FIX THE TIME OF HOLDING THE SUPREME AND DISTRICT COURTS. *C. B. 79; Approved February 10, 1891.*

CONTENTS.

SECTION 1. Term of the Supreme Court.

SEC. 2. Terms of the District Courts in the several counties.

SEC. 3. Return of process.

SEC. 4. Eddy county shall remain attached to Chaves county until after May 15, 1891.

SEC. 5. Transfers of cases properly belonging to Chaves or Eddy county. Dockets and return of process.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

Sub. 93/02

SECTION 1. The annual term of the Supreme Court shall begin on the last Monday in July in each year, and continue until adjourned by order of the court.

SEC. 2. The terms of the district courts hereafter to be commenced shall be held in the several counties of this Territory, beginning at the times hereinafter fixed and continuing until adjourned by order of the court, to-wit:

In the county of Doña Ana, on the first Mondays in February and September: *Provided*, That this act shall take effect and be in force in the said county of Doña Ana from and after the first day of June, 1891, and that court shall be held in the said county on the second Monday of March, 1891, as now provided by law.

In the county of Sierra, on the third Mondays in March and

October: *Provided*, That this act shall take effect and be in force in the county of Sierra from and after July 1, 1891: *And further*, That court shall commence and be held in the county of Sierra on the second Monday of June, 1891, instead of first Monday of May, 1891.

In the county of Grant, on the second Mondays in April and November: *Provided*, That this act shall take effect and be in force in the county of Grant from and after June 1, 1891: *And further*, That court shall commence and be held in and for the county of Grant on the first Monday of May, 1891, instead of first Monday of February, 1891.

In the county of Socorro, on the first Mondays in May and December.

In the county of Lincoln, on the second Mondays in March and October: *Provided*, That in the county of Lincoln the regular March term, 1891, shall not be held, but that a term shall be held for said county beginning on the 6th day of April, 1891,

In the county of Chaves, on the third Monday in February and fourth Monday in October: *Provided*, That in the county of Chaves the regular February, 1891, term shall not be held, but that a term shall be held for said county beginning on the 20th day of April, 1891.

In the county of Eddy, on the first Monday in February and second Monday in November.

In the county of Bernalillo, on the first Mondays in March and October.

In the county of Valencia, on the third Mondays in February and September.

In the county of San Miguel, on the first Mondays in April and November.

In the county of Mora, on the first Monday in March and the third Monday in October.

In the county of Colfax, on the third Monday in March and the first Monday in October.

In the county of Santa Fe, on the last Monday in May and the first Monday in January.

In the county of San Juan, on the third Mondays in April and October.

In the county of Rio Arriba, on the last Mondays in April and October.

In the county of Taos, on the second Mondays in May and November.

SEC. 3. All bonds, venires, warrants, writs, subpoenas and other processes of said courts respectively, returnable at other times than those above specified, are hereby declared to be and are returnable to the times above provided.

SEC. 4. No term of the district court shall be held in the county of Eddy until after the 15th day of May, 1891, but until that date said county shall remain attached to the county of Chaves for judicial purposes, as now provided by law. After said date terms of courts shall be held in Eddy county at the times hereinbefore provided.

SEC. 5. In any case now pending in the district court for Lincoln county which might or should have been begun in the court for either of the counties of Eddy and Chaves, had those counties been in existence at the time of the beginning of such case, upon application in writing by either party to the judge of the district, and after five days notice to the opposite party, an order may be made, in the discretion of the court, for the transfer of the case from the Lincoln county docket to the docket of such said two other counties as the court may consider proper.

The clerk of the district court shall keep separate dockets and records of the Eddy county business, notwithstanding the fact that that county is for the present attached to Chaves county for judicial purposes. Upon the transfer of any case from Lincoln county as herein provided, all rules, orders, bonds and process in said case now returnable to the court for Lincoln county shall be returnable to the court for the county to which such case may be so transferred.

SEC. 6. All laws and parts of laws in conflict with this act are hereby repealed, and this act shall take effect immediately.

CHAPTER XX.

AN ACT TO AMEND SECTIONS 1, 4, AND 5 OF AN ACT ENTITLED "AN ACT DECLARING CERTAIN CRIMES CAPITAL FELONIES," APPROVED FEBRUARY 18, 1887, AND FOR OTHER PURPOSES. *C. B. 47; Approved February 10, 1891.*

CONTENTS.

SECTION 1. Willful and malicious meddling with railroad track, ditching or displacing locomotive or cars, declared felony.

SEC. 2. Meddling with switch, throwing locomotive or cars from track; crime defined. Penalties.

SEC. 3. In cases where punishment shall be death.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 1 of an act entitled "An Act declaring certain crimes capital felonies," approved Feb. 18, 1887, be and the same is hereby amended so as to read as follows: "Any person or persons who shall willfully and maliciously displace, remove or in any manner so interfere with any rails, ties or switches on any railroad within this Territory, or place obstructions of any kind upon any railroad track over which locomotives and cars may be run, for the purpose and with the intent to throw any locomotive or railroad cars from the track, and shall throw or ditch any locomotive, car, or cars from the track, on conviction thereof such person or persons shall be deemed guilty of a capital felony, and shall suffer the punishment of death; and any person or persons who shall willfully and maliciously displace, remove or in any manner so interfere with any rails, ties or switches on any railroad within this Territory, or place obstructions of any kind upon any railroad track over which locomotives and cars may be run, for the purpose and with the intent to throw any locomotive or railroad cars from the track, on conviction thereof such person or persons shall be deemed guilty of a felony and shall be imprisoned in the Territorial Penitentiary for a period not less than three years nor more than ten years, at the discretion of the court.

SEC. 2. That section 4 of the act mentioned in the preceding section be and the same is hereby amended to read as follows: "If any person or persons shall willfully and malicious-

ly open or close any switch on any railroad track within this Territory, with the intent to throw any locomotive or cars from the track of such railroad, and shall throw or ditch any locomotive, car or cars from the track, shall be deemed guilty of a capital felony, and on conviction thereof shall suffer the punishment of death; and any person or persons who shall willfully and maliciously open or close any switch upon any railroad track within this Territory, with intent to throw any locomotive or cars from the track of such railroad, shall be deemed guilty of a felony, and on conviction thereof shall be imprisoned in the Territorial Penitentiary for a period not less than three years nor more than ten years, at the discretion of the court."

SEC. 3. That section 5 of the act mentioned in the foregoing sections of this act be and the same is hereby amended to read as follows: "Upon conviction of any person of the offenses defined in this act, when the punishment is death, the like proceedings shall be had by the court in pronouncing judgment and sentence as in case of conviction of murder in the first degree, and the sheriff shall in the same manner execute the judgment of the court."

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 5. This act shall be in full force and effect from and after its passage.

CHAPTER XXI.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT FOR THE PROTECTION OF WIVES AND FAMILIES," SESSION LAWS 1887.
H. B. 56; Approved February 11, 1891.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 1 of said act be and the same is hereby amended by striking out the words, "imprisonment in the Territorial Penitentiary at hard labor for not less than one year nor more than five years, in the discretion of the court," and inserting the words, "a fine of not less than twenty-five nor

more than one thousand dollars, or by imprisonment for not less than thirty days nor more than three years, or by both such fine and imprisonment, as the court may direct" in lieu thereof, so that said section shall read as follows:

"Section 1. Any person who shall unlawfully, willfully or wantonly assault his wife or treat her with cruelty or violence shall, on conviction thereof, be punished by a fine of not less than twenty-five nor more than one thousand dollars, or by imprisonment for not less than thirty days nor more than three years, or by both such fine and imprisonment, as the court may direct."

SEC. 2 This act shall be in full force and effect from and after its passage, and all acts and parts of acts in conflict with the provisions hereof are hereby repealed.

CHAPTER XXII.

AN ACT ENABLING THE AUTHORITIES HAVING CHARGE OF THE FINANCES OF ANY TOWN OR CITY OF THE TERRITORY OF NEW MEXICO TO REFUND ANY BONDS OR OTHER OBLIGATIONS OF SAID TOWN OR CITY, BY THE ISSUANCE OF SIMILAR OBLIGATIONS BEARING A LESS RATE OF INTEREST. *C. B. 48; Approved February 11, 1891.*

CONTENTS.

- SECTION 1. May issue new bonds bearing a lower rate of interest in payment of old indebtedness.
- SEC. 2. Sold to highest bidder, provided not sold for less than par value.
- SEC. 3. Denomination. Interest. How and when payable.
- SEC. 4. Bonds and coupons, form, how signed, and shall be registered in a book for the purpose.
- SEC. 5. Shall levy tax for interest.
- SEC. 6. Bonds may become payable after twenty years.
- SEC. 7. After twenty years shall provide a sinking fund, and pay bonds as rapidly as funds accumulate for the purpose.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That the mayor and council, board of supervisors or trustees of any town or city in the Territory of New Mexico, are hereby authorized and empowered to issue bonds or other

obligations in lieu of those now outstanding and which are now due and payable, or which may become due and payable, and for which said town and city is now obligated: *Provided*, That such obligations be issued for the purpose of reducing the rate of interest on said obligations now outstanding.

SEC. 2. That the aforesaid authorities of said town or city shall have the right to dispose of said new bonds or obligations to the highest bidder therefor: *Provided, however*, That no bonds or other obligations of such new issue shall be sold for less than their par or face value.

SEC. 3. Any and all bonds issued under the provisions of this act shall be of the denomination of one hundred dollars each, or some multiple thereof, and shall bear a less rate of interest than the former bonds in lieu of which they are issued, said interest to be payable annually on the first day of July of each year; both principal and interest shall be payable at the office of the treasurer or other official having custody of the funds or moneys of said town or city issuing such bonds, or at such place as the mayor and council, board of supervisors or trustees may designate; and all such bonds shall be payable at the option of the mayor and council, board of supervisors or trustees issuing the same in twenty years, and absolutely due and payable thirty years after the date thereof.

SEC. 4. All bonds issued under the provisions of this act shall be numbered consecutively, beginning with number 1, and shall be signed by the mayor and attested by the clerk under the seal of the said town or city. The mayor and council, board of supervisors or trustees shall prescribe the form of such bonds and fix the date thereof, and all coupons shall be signed by the mayor and by the treasurer of such town or city; and the coupons attached to each bond shall bear the same number as the bond to which they are attached and shall show the date of maturity of such coupon bonds. The mayor and council, board of supervisors or trustees shall also provide a book and shall cause to be registered therein, in the order in which they are issued, the number, date, amount of each bond so issued, the time when the same shall become due, together with the name of the person to whom issued and a description of the bond.

SEC. 5. It shall be the duty of the mayor and council, board of supervisors or trustees of any town or city issuing bonds under the terms of this act to levy each year, at the time and in

the same manner of making the levy of other taxes to be assessed and collected, a tax sufficient in amount to pay the interest on said bonds so issued, for each year; such tax shall be kept separate from the taxes levied for other town or city purposes and shall be payable in money, and shall be devoted exclusively to the payment of such interest.

SEC. 6. After the expiration of twenty years from the date of said bonds or at any time after the date when said bonds of said town or city shall become payable, as money shall accumulate in the treasury of said town or city, under the direction of the corporate authorities of said town or city the treasurer of said town or city may call in all or any part of said bonds outstanding, by giving notice in some newspaper published in said town or city, or in some newspaper published in such place as the mayor and council, board of supervisors or trustees may designate, for a period of sixty days, notifying and calling upon the holder or holders of said bonds to present the same to the said treasurer or other official for redemption, and any such bonds so called in which shall not be presented for payment within the time specified in said notice shall cease to bear interest from and after the expiration of said specified time for redemption.

SEC. 7. After the expiration of twenty years from the date of said bonds, the same not having been paid by the towns or cities issuing bonds under the provisions of this act, and annually thereafter until paid, the mayor and council, board of supervisors or trustees of each of said towns or cities shall provide a sinking fund for the payment of said bonds, by taxation, and shall levy a tax for that purpose equal to at least ten per centum and not more than twenty per centum, of such bonds. All bonds shall be called for redemption in the order of their number, beginning with number 1.

SEC. 8. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect and be in full force from and after its passage.

CHAPTER XXIII.

AN ACT TO FIX THE SALARIES OF THE TREASURERS OF THE COUNTIES OF LINCOLN, CHAVES AND EDDY. *C. B. 109; Approved February 11, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Salaries of the treasurers of the counties of Lincoln, Chaves and Eddy are hereby fixed as follows, to wit:

In the county of Lincoln, four hundred dollars per annum.

In the county of Chaves, three hundred dollars per annum.

In the county of Eddy, three hundred dollars per annum.

Provided, however, That the salary of the treasurer of the county of Lincoln shall be the same as heretofore fixed by law until the 1st of January, 1893, until which time this act shall not take effect as to Lincoln county. Said salary shall be paid quarterly by the respective counties and shall be in full compensation for all services rendered by them in connection with the offices.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHAPTER XXIV.

AN ACT TO FIX THE COMPENSATION OF PROBATE JUDGES IN THE COUNTIES OF LINCOLN, CHAVES AND EDDY, IN THE TERRITORY OF NEW MEXICO. *C. B. 69; Approved February 11, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Hereafter the annual salaries of the probate judges in the counties of Lincoln, Chaves and Eddy, in the Territory of New Mexico, shall be as follows, to-wit:

In the county of Lincoln, said salary shall be four hundred dollars.

In the county of Chaves, two hundred and fifty dollars.

In the county of Eddy, two hundred and fifty dollars.

SEC. 2. All laws, special or general, in conflict with this act are hereby repealed, and this act shall be in force from and after its passage.

CHAPTER XXV.

Sup 1897
AN ACT ESTABLISHING COMMON SCHOOLS IN THE TERRITORY OF NEW MEXICO AND CREATING THE OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION. *H. B. 85; Approved February 12, 1891.*

CONTENTS.

- and includes 12, 1891. 93 pp 53, 75-
also call R 93 pp 47*
- See Act 45 pp 86-
See pages 104, 119, 136 this book
Bonds R-89 pp 195-
93 pp 56
Review pp 97 see 4 this book*
- SECTION 1. Territorial Board of Education. Meetings.
SEC. 2. The Governor shall be president.
SEC. 3. Office of Superintendent of Public Instruction created. Governor shall appoint. Salary. Secretary of the board.
SEC. 4. The board shall apportion the school fund and certify such to treasurer and county superintendent. Auditor shall draw warrants.
SEC. 5. Official oath of superintendent. Filed with the Secretary of the Territory.

DUTIES OF SUPERINTENDENT OF PUBLIC INSTRUCTION.

- SEC. 6. The Superintendent shall visit each county and hold teachers' institutes. File reports of local superintendents.
SEC. 7. Shall recommend the most approved books for the common schools. When adopted by the board shall not be changed for four years.
SEC. 8. Shall prescribe and prepare blank forms in English and Spanish. Distribution. Publish needed school laws.
SEC. 9. Shall make detailed reports of all public and private schools in the Territory.
SEC. 10. Shall have an office at the capital, where he shall keep his official papers. Deliver same to his successor.

COUNTY SCHOOL SUPERINTENDENT.

- SEC. 11. A superintendent of schools for each county shall be elected. Term of office. Compensation.
SEC. 12. Shall have charge of the schools of the county. Official oath. File with county clerk. Give a bond.
SEC. 13. Apportion school funds to the several districts according to school population and certify same to county treasurer. Exception. Shall visit each school, and with two competent persons shall examine and certify teachers.
SEC. 14. Organization of school districts. Detailed reports to Territorial Superintendent.
SEC. 15. Liability on bond for neglect to make report.
SEC. 16. Present school districts confirmed. And in which shall be taught branches named.
SEC. 17. The school district declared a body corporate, and shall hold title to school property.
SEC. 18. New districts may be formed or boundaries changed. *Provided, etc.*

SCHOOL DIRECTORS.

- SEC. 19. Election of school directors and result certified to county superintendent. Qualification of voters. Term of office shall begin first Monday in July. Official oath.

- SEC. 20. Meeting five days after qualification. Organization. Duties. Vacancy, how filled.
- SEC. 21-22. Duties. Tax levy. Reports to county superintendent. Penalty for failure to make report.
- SEC. 23. Teachers shall keep certain records and report to county superintendent. Penalty for failure.
- SEC. 24. General tax for school purposes to be levied by the Auditor and certified to the several counties.
- SEC. 25. County treasurer or treasurer of school funds shall give special bond and file same with Territorial Superintendent.
- SEC. 26. Territorial Treasurer shall give bond as treasurer of school fund in the sum of \$100,000.
- SEC. 27. Auditor and treasurer shall each keep a separate account of school fund. Any tax collector failing to pay over all school money collected shall be summarily removed from office by the Governor. Successor.
- SEC. 28. School building bonds. Limitation.
- SEC. 29. Question of bonds submitted to a vote of qualified electors. Terms of the bond and disposition of same.
- SEC. 30. Sinking fund.
- SEC. 31. All property subject to tax levy. Exemption law repealed.
- SEC. 32. Boundaries of school districts shall be established and marked upon an outline map.
- SEC. 33. Board to establish and mark boundaries.
- SEC. 34. After boundaries established; assessment of taxes.
- SEC. 35. Declared sources of temporary school funds.
- SEC. 36. Poll tax for school purposes collected by district clerk.
- SEC. 37. Duty of district clerk respecting poll tax.
- SEC. 38. County assessor to make separate rolls of poll tax for several school districts.
- SEC. 39. School district authorized to hold title to real estate necessary for school house.
- SEC. 40. If necessary land may be condemned.
- SEC. 41. Joint school districts.
- SEC. 42. Compulsory attendance at school required.
- SEC. 43. Actual residents regardless of time shall be permitted to attend school.
- SEC. 44. School month and school day defined.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico:*

*Record of Ed. Ed.
the school books
1891-92 this book*

SECTION 1. That the Governor, Superintendent of Public Instruction and the president of St. Michael's College of Santa Fe, the president of the University at Albuquerque and the president of the Agricultural College at Las Cruces shall be and constitute the Territorial Board of Education, and shall meet semi-annually at the office of said Superintendent on the first Mondays of June and December of each year: *Provided*, That the Governor may assemble the members of said board at any time at his discretion.

SEC. 2. That the Governor shall be president of said board, and shall sign the journal of each day's proceedings.

SEC. 3. The office of Superintendent of Public Instruction is hereby created, and the Governor shall appoint, by and with the advice and consent of the Council, a duly qualified person to fill said office, who shall hold his office for two years and un-

til his successor is appointed and qualified. The Superintendent of Public Instruction shall receive for his salary the sum of two thousand dollars per annum, payable quarterly on the warrant of the Auditor on the Territorial Treasurer, and also traveling expenses not to exceed five hundred dollars per annum; the said Superintendent of Public Instruction shall be secretary of said board, and shall keep a faithful and correct record of its proceedings, and shall keep the said record open at all times for inspection; a copy of said record, certified by the secretary of the board, shall be in all cases received as evidence equal with the original.

SEC. 4. That the Board of Education shall at the semi-annual meetings apportion the Territorial school fund to the various counties in proportion to the number of school children residing therein over five and under twenty-one years of age, and shall certify such apportionment to the Territorial Treasurer; they shall also certify to the treasurer and school superintendents of each county the amount apportioned to their county, and the Territorial Auditor shall draw his order on the Territorial Treasurer in favor of the county treasurer of each county for the amount apportioned to each county.

SEC. 5. That the Superintendent of Public Instruction shall, before entering upon the duties of his office, take and subscribe an oath or affirmation to support the constitution of the United States and the laws of the Territory of New Mexico and faithfully to discharge the duties of the office; which oath or affirmation shall be filed in the office of the Secretary of the Territory.

SEC. 6. That it shall be his duty to visit each county at least once a year and as much oftener as consistent with the discharge of his other duties, for the purpose of holding a teachers' institute and of awakening an interest in the cause of education throughout the territory; such institute shall be held for at least two days in each county each year. He shall file and carefully preserve in his office the official reports made to him by the county superintendents of the several counties, trustees or directors of academies or colleges.

SEC. 7. That it shall be his duty to recommend the most approved text books in English, or in English and Spanish, for the common schools of the Territory, after the same have been adopted by the Territorial Board of Education; and such text

books, when adopted, shall not be changed for a period of four years.

SEC. 8. That he shall prescribe and cause to be prepared in English and Spanish all forms and blanks necessary in the details of the common school system, so as to secure its uniform operation throughout the Territory, and to cause the same to be forwarded to the several county superintendents, to be by them distributed to the several persons entitled to receive the same. He shall cause to be published, as needed, as many copies of the school laws in force, with such forms, regulations and instructions as he may judge expedient, thereto annexed, and shall cause the same to be forwarded to the county superintendents for distribution.

SEC. 9. That he shall prepare in each year a report for publication, bearing date of the last day of December, containing a statement of the number of common schools in the Territory, the number, age and sex of pupils attending the same, and the branches taught, and value of school property; also of the number of private and select schools in the Territory, so far as the same can be ascertained, and the number, age and sex of pupils attending the same, and branches taught; the number of academies and colleges in the Territory, and the number, age and sex of students attending them, and such other matters of interest as he may deem expedient, drawn from the reports of the county superintendents, trustees and school boards, of the several counties in the territory.

SEC. 10. That he shall have an office at the seat of government, where shall be kept all books and papers appertaining to the business of his office, and copies of all papers filed in his office. His official acts may be certified by him and when so certified shall be entitled as evidence equally and in like manner as the original papers, and he shall deliver to his successor, within ten days after the expiration of his term, all books, papers, documents and other property belonging to his office.

SEC. 11. That a superintendent of schools for each county shall be elected at each general election and hold his office for two years, or until his successor is elected and qualified. He shall receive from the county treasurer the sum of five dollars for every day actually and necessarily employed in his duties, not to exceed five days in each district each year; to be audited

and allowed by the board of county commissioners upon statement of account verified by affidavit.

SEC. 12. That the county superintendent shall have charge of the common school interests of the county. He shall, before entering upon the discharge of the duties of his office, take and subscribe an oath or affirmation to support the constitution of the United States and the laws of the Territory of New Mexico, and faithfully to discharge the duties of his office, which oath or affirmation shall be filed in the office of the county clerk. He shall also give bond in the sum of two thousand dollars, to be approved by and filed with the board of county commissioners of his county.

SEC. 13. That he shall also on the first Mondays in July and January of each year, or as soon thereafter as he has received the certificate of the Territorial Board of Education, signifying the amount appropriated to his county for the use of common schools for the current year, apportion such amount, together with all the county school fund, for the same purpose, to the several districts within the county, in proportion to the number of children residing in each over five and under twenty-one years of age, as the same shall appear from the last annual reports of the clerks of the respective districts, and he shall immediately certify such apportionment to the directors of the respective districts, and to the county treasurer, who shall credit the several school districts on his books with the respective sums apportioned to them: *Provided*, That no district shall be entitled to receive any portion of the common school fund in which a common school has not been taught at least three months during the twelve months preceeding. It shall also be his duty to visit each of the schools within his jurisdiction at least once a year, and he shall also see that the annual report of the clerks of the several school districts of his county are made correctly and in due time. In conjunction with two competent persons appointed by the judge of the district court wherein the county is situated, he shall make examination of all applicants to teach and when duly satisfied of their competency shall grant them a certificate: *Provided*, That said superintendent with one of said persons so appointed shall constitute a quorum of said examining board. Said certificates shall be of three grades, and such examination shall be necessary for the three grades as the Territorial Superintendent shall designate, and in school

districts where the only language spoken is Spanish the teacher shall have a knowledge of both English and Spanish. Each member of said examining board shall receive five dollars per diem, and no more, for his services, to be paid from the county school funds.

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SEC. 14. That whenever a school district shall be formed in any county the county superintendent shall within fifteen days thereafter prepare and post a notice of the formation of such district, describing its boundaries and stating the number thereof, and appointing a time and place for the first district meeting, and shall also furnish the county clerk with the description and boundaries of each school district as soon as practicable after the same is formed. He shall on or before the 15th day of October of each year make out and transmit in writing to the Territorial Superintendent, bearing date of October 1, a report containing the statement of the number of school districts in the county, and the number, age and sex of children residing in each over five and under twenty-one years of age, the number of schools in the county, the length of time each school has been taught, the number, age and sex of pupils attending the same, the number and sex of teachers employed, branches taught, and text books used; the number of private or select schools or academies in the county, so far as the same can be ascertained; the number, age and sex of pupils and teachers employed, and the branches taught in each; the amount of public money received in each district; the amount of money raised by taxes and paid for teachers' salaries, in addition to the amount of public money raised by tax or otherwise for the purpose of purchasing sites for school buildings, repairing and furnishing school houses, and such other information as the Territorial Superintendent may desire.

SEC. 15. That every county superintendent who shall willfully neglect or refuse to make and deliver to the Territorial Superintendent his annual report, as required by this act, within the time limited therefor, shall be liable on his bond for the full amount of money lost to the county by such neglect or refusal, with the interest thereon at twelve per centum per annum, to be recovered by the county treasurer in the name of the county, from the bondsmen of said superintendent.

SEC. 16. That each of the school districts of the different counties as now constituted is hereby declared to be a school

district, until changed under the provisions of this act, and there shall be established in each district one or more schools in which shall be taught orthography, reading, writing, arithmetic, grammar, geography, the English language, and the history of the United States.

SEC. 17. That each school district shall be a body corporate by the name and style of school district No. _____ of the county of _____, and by such name may contract and be contracted with, sue and be sued, in any of the courts of this Territory having competent jurisdiction; and every such district shall hold, in the corporate name of the district, the title of lands and other property which may be required by said district for school purposes.

SEC. 18. That a new school district may be formed, or the boundaries of any district changed by the county superintendent, on petition of a majority of the electors residing within the proposed district: *Provided, however,* That after the boundaries of any district have been legally established and bonds voted, then and in that case there shall be an equitable division of the assets and liabilities of the original district. 14
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SEC. 19. That on the second Monday of May, 1891, the present county school superintendents of the respective counties shall cause to be posted notices in at least three public places in each school district, calling an election to be held for three school directors of said district, on the first Monday in June following; said election to be held by three property holders in said district, to be named in said notice, and after said election is held the three directors elected shall hold office for one year and until their successors are elected and qualified, and the judges of election shall certify the result to the county superintendent. On the second Monday of May of each succeeding year the directors serving at that time shall post notices of an election to be held by them on the first Monday in June by the qualified voters for three school directors, whose term shall be one year. Only legal voters, residing and paying taxes in said district, shall be qualified to vote at said election; the votes shall be by written or printed ballots and the election shall be held between the hours of 8 a. m. and 5 p. m. on the first Monday of June, at the public school house or some other convenient place to be specified in said notice; the result of said election shall be certified by said directors to the county superintendent and the term of office

of said directors shall begin on the first Monday of July following their election. The directors so elected shall take and file with the county superintendent before the first Monday of July an oath that they will faithfully perform the duties of their office; said oath shall be administered by the judges holding the election first provided for, and at subsequent elections by the directors serving, and in said oath shall be set forth the number of said school districts.

SEC. 20. That five days after their qualification the school directors shall meet and elect a chairman and a clerk, and two directors shall constitute a quorum, which shall be competent to discharge all the duties of a full board. Should a vacancy occur from any cause notice shall be given to the county superintendent by the directors or a director, and thereupon said county superintendent shall appoint a director to fill such vacancy until the next election. They shall have the care and keeping of the school house and other property belonging to the school district, and are hereby authorized to open the school houses for the use of religious, political, literary, scientific, mechanical, agricultural and industrial societies belonging in their district, for the purpose of holding business or public meetings of said societies.

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12 SEC. 21. That the school directors of the several districts shall have power and are hereby required to provide, as soon as practicable, school house sites, proper school houses, and sufficient fuel for the schools established by this act or any prior act; they shall pay teachers' wages and interest on school house bonds, as provided in section 22, and for that purpose they are empowered to levy a tax when necessary, not exceeding five mills on the dollar in any one year, on the taxable property of their respective districts.

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21
p. 104 *thus* SEC. 22. It shall be their duty to make an estimate for such tax levy on or before the third Monday in July of each year of the amount of money necessary for teachers' wages for at least six months in each year, and to purchase or lease suitable sites for school houses, and to keep in repair and provide for said school houses with necessary fuel and furniture, books and stationery, for the board and district meetings, and defray all other contingent expenses of the district, including interest on school house bonds, which tax levy shall be voted upon by the qualified voters of said district, and if concurred in by a

majority of such said voters of said district it shall be certified to by the board of county commissioners of the proper county, and if said commissioners decide such election legal, this tax shall then be collected by the sheriff or tax collector, as other school taxes are now collected and accounted for: *Provided*, That no board shall issue warrants or certificates of indebtedness of the school district in excess of the amount of the levy for one year, but all school orders shall draw six per cent interest per annum after having been presented to the county treasurer and not paid for want of funds, which fact shall be indorsed upon the order by the treasurer; and they shall further have power to levy a special tax not exceeding five mills on the dollar of taxable property, for the purpose of creating a sinking fund to pay off school house bonds, as provided for in section 30. The directors of the several school districts shall also employ and pay school teachers under the restrictions imposed by this act, and shall have the general control and management of the schools in their respective districts, subject to such supervision as shall herein be conferred upon the county superintendent; and the directors in the several school districts in the Territory shall, on or before the 1st day of September of each year, make an enumeration of all unmarried persons between five and twenty-one years of age, giving the names, ages and sexes of such persons in full, and reporting the same in writing, which shall be signed by all the directors, to the county superintendent, within fifteen days thereafter. All resident unmarried persons between said ages shall be entitled to attend the schools of their districts. The clerks of the several school districts shall, on or before the 1st day of May of each year, make a report to the county superintendent in writing, showing the amount of money collected and expended for school house sites, school houses, and fuel, interest on school house bonds, contingent expenses, and for salaries paid teachers, within the twelve months preceding. Any school director who shall willfully refuse or fail to make any report or perform all the duties required by this section shall be deemed guilty of a misdemeanor, and on conviction before the district court of the proper county shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for a period not exceeding sixty days, in the discretion of the court.

14, 16, 19-30
28, 29, 30-33

SEC. 23. That every person employed to teach a school established by this act, or any acts now in force, shall keep a proper record and at the end of each term make a report to the county superintendent, showing the whole number of pupils that have attended school during such term, giving the names, ages, and sexes, the average daily attendance, the branches taught, and such other facts as may be deemed important as showing the character of the school and the proficiency of the pupils; and for failure to make such report he may be fined in the sum of not more than fifty dollars, upon conviction before any justice of the peace. No person shall be paid any money for teaching any school established under this act until an order is presented, signed by two of the school directors of the proper district, and indorsed by the county superintendent.

*187 was the year
12, 30, 14, 15, 19
28,* SEC. 24. That the Territorial Auditor shall annually, on or before the 1st day of May of each year, levy a tax not exceeding three mills on the dollar upon the taxable property of the Territory, and certify the same to the tax collectors of the several counties, who shall collect the same as other taxes are collected and pay the same to the Territorial Treasurer. The money thus received shall not be expended for any other purpose or purposes than for paying the expenses of collecting, which shall not exceed two and one-half per centum of the sum collected, for paying expense of printing necessary forms and blank reports and school laws, the salary of the county superintendent of public instruction and the expenses of his office, and paying school teachers. Said school money when collected shall be apportioned to the several counties as provided in this act.

SEC. 25. That the county treasurers shall severally give bond with two or more sureties as treasurers of the school fund in their respective counties, in a sum which shall be fixed by the Superintendent of Public Instruction at double the probable amount of the school funds which shall come into their hands; said bonds shall in no case be for a less amount than ten thousand dollars and shall be approved by the county superintendent of the proper county and filed with the Superintendent of Public Instruction.

SEC. 26. That the Territorial Treasurer shall give bond as treasurer of the school fund of the Territory in the sum of one hundred thousand dollars, with such sureties as shall be approved by the Governor, which bond shall be filed with the Superin-

tendent of Public Instruction, and legal proceedings for the recovery thereon shall be in the name of the Territory of New Mexico, and the Solicitor General of the Territory of New Mexico shall prosecute suits on the said bond.

SEC. 27. That the Territorial Auditor shall keep a separate account of the school fund with each collector of taxes, and the Territorial Treasurer shall keep such funds separate from all others. Any tax collector who shall fail to pay over all school money collected by him within thirty days after the 10th day of each month in which the same is collected shall be summarily removed by the Governor from the office of collector. *293617*

If the tax collector be also sheriff such delinquent shall also be removed from the office of sheriff and for ever thereafter be disqualified from holding either of said offices, and the Governor shall appoint a successor, who shall qualify according to law, and who shall hold his office during the balance of the time of the officer removed. It shall also be the duty of the collector of taxes to keep the accounts of special taxes levied by school districts in separate books provided for that purpose. "

7. SEC. 28. That school districts shall have power and authority to borrow money for the purpose of erecting and completing school houses by issuing negotiable bonds of the district, to run any period of not less than twenty years nor exceeding thirty years, drawing interest at a rate of not to exceed six per centum per annum, with interest payable semi-annually, or annually, at such place as the board of directors issuing the [same] may direct, which said indebtedness shall be binding and obligatory on the school districts for the use of which said loan shall be made; but no district shall permit a greater outstanding indebtedness than an amount equal to four per centum of the assessed value of the property of [such] district. *14,22,18,19*

SEC. 29. That the directors of any school district may submit to the voters of their district at the annual or any special meeting called for that purpose, the question of issuing bonds as contemplated by this act, giving the same notice of such meeting as is now required to be given for the election of directors by this act, and the amount proposed to be raised by the sale of such bonds, which question shall be voted upon by the qualified electors of the district, and if a majority of all the votes cast upon that question be in favor of the issue of such bonds, then said board shall issue bonds to the amount voted, in *30, 32*
See 2936, 06

denominations of not less than twenty-five dollars nor exceeding five hundred dollars, due not less than twenty nor more than thirty years after date, and redeemable at the pleasure of the district at any time after ten years, which said bonds shall be given in the name of the district issuing them and shall be signed by the president of the board of directors and approved by the county superintendent and be delivered to the county treasurer, taking his receipt therefor; and said county treasurer shall advertise for the sale of said bonds to the highest bidder in at least four issues of some weekly paper published in his county, or an adjoining county, and shall countersign said bonds when negotiated; the county treasurer shall place the proceeds of such sale of bonds to the credit of the proper district, to be paid out as provided for in the [manner] of special district tax. The county treasurer shall stand charged upon his official bond with all bonds that may be delivered to him, but any bond or bonds not sold may be returned to the district and the treasurer credited with the same: *Provided*, That if such bonds are issued for the building of a school house, that the contractor constructing the same may receive in payment such bonds at their face value, or at the price offered by the highest bidder: *Provided further*, That none of the bonds mentioned in this act shall be sold for less than ninety cents on the dollar.

88 SEC. 30. That a special levy, not to exceed five mills, may be levied by the district board as [is] provided for the general expense five mills levy of section 22, to be used as a sinking fund for the payment of outstanding bonds: *Provided*, no levy shall be made for the creation of a sinking fund at a less period than ten years after such bonds have been issued. The sinking fund may be applied by the directors to the purchase and cancellation of outstanding bonds of the district.

See p 231 of this book
2808 C.R. 14
R-87 p 9 72
L 93 p 9 21
SEC. 31. All property, personal and real, situated in each school district shall be subject to the general three mills levy, and also to the sinking fund bond levy, and also to the five mills special levy, for the purpose of this act and no further. The exemption laws heretofore and now in force in this Territory are hereby repealed.

14, 27, 28 SEC. 32. That no bonds of any district shall be issued or any special tax levied until the boundaries of said districts shall have been established and the property marked by monuments or by natural objects as provided by law. The boundaries of all school

districts in this Territory, so far as possible, shall coincide with the precinct boundaries, and said boundaries shall be established by the proper authority, and the corners thereof marked by monuments or natural objects with the words, "District No. _____," in a permanent manner marked upon them, and an outlined map of the district made, showing the length and breadth thereof, and the proposed location of the school house; a copy of the said map to be filed with the county superintendent.

SEC. 33. That the county superintendent, the president of the school district, and some competent person, the county surveyor should there be one appointed by the county commissioners, shall constitute the board, whose duty it shall be to establish corners, boundary lines, and draw the map contemplated in section 32 of this act; the expense of such proceedings to be charged to the county wherein the district is situated and to be allowed by the board of county commissioners thereof, and not to exceed the sum of ten dollars for each district.

SEC. 34. That in any school district where a special tax is in contemplation of being levied, or of bonds being issued, and after the boundaries of the district have been properly determined and marked for that purpose, it shall be the duty of the county assessor to visit said district and make an assessment of all taxable property, both personal and real, within said school district as fully and completely as he is now required to make the assessment of the county, and he shall be governed by the same rules, especially including in such assessment all kinds of live stock which graze wholly within the limits of such district. The county assessor shall provide each board of district directors with a copy of such lists of taxable property in the several districts.

SEC. 35. That the following are hereby declared to be and remain temporary funds for common school purposes:

First. The proceeds of all sales of intestates' estates which escheat to the Territory.

Second. All forfeitures or recoveries on bonds of county, precinct or territorial school officers.

Third. The proceeds of all fines collected for violations of the penal laws.

Fourth. The proceeds of the sales of lost goods or estrays.

Fifth. All moneys arising from licenses imposed upon wholesale and retail liquor dealers, distilleries, breweries, wine-

was added and the sum of \$100,000 was added
in 1893 & 1894 but for some reason left out.

presses, (gambling tables or games of chance) which now pay license or may hereafter be required to pay license.

cf -
page 24
Sec. 3.
All the moneys arising from the above enumerated sources, when collected, shall be paid into the county treasury to the account of the several school districts wherein such sums are collected, officers collecting and paying in the same taking the county treasurer's receipt therefor. Should there be more than one school district in any precinct said amount collected shall be divided among the several school districts pro rata according to the scholastic census of said district as furnished to the county school superintendent for the current year.

2-89 p 18
2-89 p 277
SEC. 36. That a poll tax of one dollar shall be levied upon all able bodied male persons over the age of twenty-one years, for school purposes. It shall be the duty of the county assessor to make out separate lists of all persons liable to pay a poll tax in each district, and certify the same to the clerks of the several school districts, whose duty it shall be to collect the same, and said clerks shall receive ten per centum of all moneys collected from poll taxes. The district clerks are hereby empowered to bring suit in the name of the district for the collection of the same, if not paid within sixty days after said lists have been received by the treasurer: *Provided*, It shall be illegal for any person to vote at any election who has not paid his poll tax for the current year, and said payment must be made, in case of a general election, one day previous to such election day.

SEC. 37. That it shall be the duty of the district clerks to make at least one copy of the poll tax lists as soon as received from the county assessor, and post them up in some conspicuous place in their districts for the information of the people, and on or before the first Monday of April the district clerks shall report to the county superintendent in writing the amount of poll tax collected, from whom collected, the names of persons still delinquent, and the reason for the delinquency.

Supp to this book
2-93 p 28
SEC. 38. That on and after this act goes into effect it shall be the duty of the county assessor to make separate rolls of the poll tax lists for the several school districts, and the said poll tax shall be collected as provided by this act.

SEC. 39. That it shall be lawful for any district to take and hold in its corporate name, under the provisions of this act, so much real estate as may be necessary for the location and con-

struction of a school house and convenient schools: *Provided*, That the real estate so taken otherwise than by consent of the owner shall not exceed one acre. The site so taken must be situated on some public highway or thoroughfare.

SEC. 40. That if the owner of any such real estate refuse or neglect to grant the necessary site on his premises, then and in that case the directors may acquire title to so much of said land as is necessary for school purposes in the manner now provided by law for the condemnation of land for railroads or other public purposes, and such land so taken shall be deemed to be taken for public use.

SEC. 41. That it shall be lawful for communities, where lying contiguous in the same county, though in different precincts, to form school districts according to the provisions of this act: *Provided*, That in such cases it shall be the duty of five of said petitioners to certify under oath the number of heads of families and children of school age belonging to the several parts or precincts sought to be joined in the new district.

SEC. 42. That the school directors of the various districts in this Territory are hereby empowered and required to compel parents, guardians, or other person having the control, care or direction of children, when such children do not attend some private school, to send such children under their control to the public school for at least three months in each year, except when such children shall be under age or about sixteen years of age, or of such physical disability as to unfit them for the labor required, which disability shall be certified to by some regular practicing physician. Any parent, guardian, or other person having the control of children who shall fail or refuse to send such children to school, as required by this act, shall be punished upon conviction thereof by a fine of not less than one dollar nor more than twenty-five dollars, or by imprisonment for not more than ten days in any county jail: *Provided*, That such school directors shall have served written notice upon said parents, guardians or other persons having the care or control of said children that such children are not in attendance at the public school or any other school as required by law: *Provided further*, That if such parent or guardian is not able by reason of poverty to buy books for any such child, it shall be the duty of the school board of the proper district, upon the facts being

shown to their satisfaction, to furnish the necessary books and pay for the same out of the school fund of such district, by warrants drawn as in other cases; or that there is no school taught within two miles of the place of residence of such child by the nearest established road. All fines so collected [for] the violation of this section shall be paid into the county treasury and placed to the credit of the school district in which the offense occurs.

SEC. 43. That pupils who are actual residents of a district shall be permitted to attend school in the same, regardless of the time when they acquire such residence, whether before or after the enumeration.

SEC. 44. That the school month shall consist of four weeks of five days each, and a school day shall consist of six hours.

SEC. 45. That all laws and parts of laws providing for the levy and collection of taxes for school purposes, and all laws and parts of laws relating to public schools in the Territory of New Mexico for the expenditure of money for the public schools, are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER XXVI.

AN ACT IN RELATION TO SEWERS IN CITIES AND INCORPORATED TOWNS. *H. B. 32; Approved February 13, 1891.*

CONTENTS.

SECTION 1. Power to levy special assessment to lay and keep sewers in repair.

SEC. 2. May require owners to make and keep in repair suitable sewer connections. Penalty.

SEC. 3. Sewerage rates shall be a lien when properly assessed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That municipal corporations having sewers shall have the right by general ordinance to levy special assessments upon improved and unimproved lots and land adjoining streets and alleys through which sewer pipes are laid, and upon premises and improvements otherwise situated but having sewer connection, such as may be just and reasonable, for the purpose of

defraying the expense of maintaining, operating and keeping in repair said sewers: *Provided*, Said levy of special assessment on unimproved lots or lands shall not exceed thirty-three per cent of the rate of assessment levied upon improved lots or land.

SEC. 2. That such corporation may also by general ordinance require, under suitable penalties and punishment, owners, agents and occupants of buildings on lots and land adjoining streets and alleys, where sewer pipes are laid, to have and make proper sewer connections, and may pass all needful rules and regulations as to the making, permitting, using, injuring, keeping in good order and repair, visiting, supervising and inspecting said sewer pipes and connections, and impose suitable penalties and punishments for the violation of such rules and regulations.

SEC. 3. That said special assessments shall be called sewerage rates, and they shall be a lien upon the premises upon which they are properly assessed, and a personal liability of the owner to be collected under the provisions of sub-section 75 of section 1622 and section 1660 of the Compiled Laws of New Mexico, 1884.

SEC. 4. That all laws in conflict herewith are hereby repealed. This act shall take effect and be in force from and after its passage.

CHAPTER XXVII.

AN ACT ENTITLED "AN ACT TO AMEND SECTION 1771 OF THE COMPILED LAWS OF 1884, RELATING TO THE OFFICIAL BONDS OF THE TERRITORIAL TREASURER AND AUDITOR." *C. B. 86; Approved February 14, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That section 1771 of the Compiled Laws of 1884 be amended to read as follows:

"Section 1771. The Territorial Treasurer and the Auditor of Public Accounts of the Territory shall keep their offices at the seat of government of the Territory. They shall be nominated and, by and with the consent of the Legislative Council,

appointed by the Governor, and shall hold their offices for and during the term of two years and until their successors are appointed and qualified. They shall, before entering upon the discharge of their duties, respectively execute and deliver to the Secretary of the Territory a bond to the Territory, in the sum of four hundred thousand dollars for the Treasurer, and one hundred thousand dollars for the Auditor of Public Accounts, with good and sufficient sureties, to be approved by the Governor, and conditioned for the faithful discharge of the duties required or which may be required of them by law.

The approval of the Governor and the date thereof shall be indorsed on the bond. Said bond to be given within twenty days after the appointment is made: *Provided*, That if no appointment is made as provided herein before the first day of March, 1891, and the present incumbents of said offices hold over, they shall within ten days from the said first day of March respectively make and execute the bonds as herein prescribed, in lieu of their present bonds.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHAPTER XXVIII.

AN ACT RELATING TO DEPOSITIONS. *H. B. 26; Approved February 14, 1891.*

CONTENTS.

- SECTION 1. Depositions of witnesses, when may be taken and used in court.
SEC. 2. Notice shall be filed and given to adverse party.
SEC. 3. Defendant failing to appear on publication notice served by filing interrogatories.
SEC. 4. Cross-interrogatories.
SEC. 5. Style of the commission, attestation, address, requirements, return.
SEC. 6. To whom the commission shall be addressed.
SEC. 7. Witness not appearing shall be subpoenaed.
SEC. 8-9. Proceedings of the commissioner to take deposition. Sealing. Interpreter.
SEC. 10. Transmittal of deposition.
SEC. 11. Depositions on file; when may be opened.
SEC. 12. Notice of objection as to form.
SEC. 13. Depositions subject to legal exceptions. Identification of witness.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Depositions of witnesses to be used in any court

in this Territory, in all civil cases and proceedings, may be taken in the following cases:

1. When, by reason of age, infirmity, sickness or official duty, it is probable that the witness will be unable to attend the court.

2. When the witness resides without the Territory or the county in which the suit is pending.

3. When the witness has left, or is about to leave, the Territory or county in which the suit or proceeding is pending, and will probably not be present at the trial.

SEC. 2. The party wishing to take the deposition of a witness in any suit or proceeding pending in any court of this Territory shall file with the clerk of such court, or with the justice of the peace, if it be before a justice of the peace, a notice of his intention to apply for a commission to take the answers of the witness to interrogatories attached to such notice. The notice shall state the name and residence of the witness, or the place where he (or she) is to be found, and the suit or proceeding in which the depositions are to be used, and a copy thereof and of the attached interrogatories shall be served upon the adverse party, or his attorney of record, five days before the issuance of a commission.

SEC. 3. In suits where service has been made by publication, and the defendant has not appeared or pleaded within the time prescribed by law, service of notice of filing interrogatories may be made at any time after the day when the defendant is by law required to plead or answer, by filing such notice with the clerk of the court in which said suit is pending, or with the justice of the peace before whom the suit or proceeding is pending, at least twenty days before the issuance of a commission.

SEC. 4. Whenever one party may file interrogatories for the purpose of taking the deposition of a witness, the opposite party may file cross-interrogatories at any time before the commission issues, and a copy of the same shall accompany the direct interrogatories, and shall be answered and returned therewith.

SEC. 5. The style of the commission shall be "The Territory of New Mexico," and it shall be dated and tested as other process; it shall be addressed to the several officers named in the succeeding section, and shall authorize and require them or either of them to summon the witness before the officer taking the deposition forthwith, and to take his answers under oath to the direct interrogatories and cross-interrogatories, if any, a copy of

which shall be attached to such commission, and to return without delay the commission, interrogatories and answers of the witness thereto to the officer issuing the commission.

SEC. 6. The commission shall be addressed to the following officers, either of whom may execute and return the same:

1. If the witness be alleged to reside or be within the Territory of New Mexico, to any district judge, clerk of district court, clerk of probate court, probate judge, or any notary public of the county in which the witness is alleged to be.

2. If the witness is alleged to reside or be without the Territory of New Mexico, and within the United States, to any clerk of a court of record having a seal, to any notary public, or to any commissioner of deeds duly appointed under the laws of this Territory, and residing within the State or Territory within which the witness is alleged to be or reside.

3. If the witness is alleged to be or reside without the United States, to any notary public or any minister, commissioner or charge de affaires of the United States residing in and accredited to the country where the deposition may be taken, or any consul general, consul, vice consul, commercial agent, deputy consul or consular agent of the United States resident in such country.

SEC. 7. Upon the receipt of such commission by any officer to whom it is addressed, residing in this Territory, if the witness does not voluntarily appear, he shall issue a subpoena to the sheriff, or any constable of his county, requiring him to summon the witness to appear and answer the said interrogatories at a time and place named in the subpoena.

SEC. 8. Upon the appearance of the witness, the officer to whom the commission is directed shall proceed to take his answers to the interrogatories. The answers shall be reduced to writing, and shall be signed and sworn to by the witness. The officer shall certify that the answers were signed and sworn to by the witness before him, and shall seal them up in an envelope, together with the commission and interrogatories and cross-interrogatories, if any, and shall write his name across the seal, and shall direct the package to the clerk of the court of the justice of the peace issuing the commission.

SEC. 9. The officer executing such commission shall have the authority, when he shall deem it expedient, to summon and swear an interpreter to facilitate the taking of the depositions.

SEC. 10. Depositions may be returned to the court, either by mail, by a party interested in taking the same or by any other person. If sent by mail, the postmaster or his deputy mailing the same shall indorse thereon that he received them from the hands of the officer taking the same, and the clerk or justice taking them from the postoffice shall indorse thereon that he received the same from the postoffice and signed his name thereto. If sent otherwise than by mail, the person delivering them into court shall make affidavit (which shall be indorsed on the envelope) before the clerk or justice that he received them from the hands of the officer before whom they were taken, that they have not been out of his possession since, and that they have undergone no alteration.

SEC. 11. Depositions after being filed may be opened by the clerk or justice at the request of either party or his counsel; and the clerk or justice shall indorse on such depositions upon what day and at whose request they were opened, signing his name thereto, and they shall remain on file, subject to the inspection of either party. When a deposition has been taken by any party, the adverse party has the right to use the same on trial.

SEC. 12. When any depositions shall have been on file in the court at least one entire day before the day on which the trial commences, no objection to the form thereof, or to the manner of taking the same, shall be heard unless the objections are in writing and notice thereof is given to the opposite counsel before the trial commences.

SEC. 13. Depositions may be read in evidence upon the trial of any suit or proceeding in which they are taken, subject to all legal exceptions which might be made to the interrogatories and answers, were the witness personally present before the court giving evidence. If any depositions shall contain any testimony not pertinent to the direct and cross-interrogatories propounded, such matter shall be deemed surplusage, and may be stricken out by the court upon objection thereto. In every case the officer taking and certifying the deposition of any witness shall certify that he personally knows the witness to be the person such witness purports to be, if the witness is personally known to the officer; but if such witness is not personally known to the officer, he shall then require the witness to be identified by at least two responsible persons well known to the

officer, and he shall certify to the fact of the identification of the witness.

SEC. 14. All acts and parts of acts in conflict with the provisions of this act are hereby repealed, and this act shall be in full force and effect from and after its passage.

CHAPTER XXIX.

AN ACT TO AMEND SECTION 2788 OF THE COMPILED LAWS OF NEW MEXICO OF 1884. *H. B. 89; Approved February 14, 1891.*

CONTENTS.

SECTION 1. Disposition of proceeds of sale of town site lots.

SEC. 2. Treasurer of town trustees shall pay over to treasurer of school district all money and effects coming into his hands.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Section 2788 of the Compiled Laws of New Mexico of 1884 be and the same is hereby amended so as to read as follows:

"Section 2788. The proceeds received from said sale shall be disposed of as follows:

"*First.* They shall be applied to pay the expenses of said sale.

"*Second.* To discharge any outstanding claims incurred in entering the town site of said town.

"*Third.* The surplus, if any, shall be paid over by said town trustees to the board of directors of the school district wherein said town is situated, to be used and expended by said school board in the erection of school buildings for the use of the public schools of said district and for the furnishing of the same, and for no other purposes."

SEC. 2. Immediately upon the passage of this act the treasurer of any board of town trustees provided for in the act to which this is amendatory shall turn over to the treasurer of the school district all moneys and property, notes, bonds and securities which may have come into his hands by virtue of said act,

taking proper receipts therefor, which money, property, notes and securities shall thereafter be vested in said school board and be expended and used as provided for in section 1 of this act.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHAPTER XXX.

AN ACT RELATING TO OFFENSES AGAINST THE PUBLIC HEALTH AND SAFETY. *H. B. 13; Approved February 14, 1891.*

CONTENTS.

SECTION 1. Owners permitting a nuisance shall be guilty of a misdemeanor.

SEC. 2. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The owner or person in possession of any lot of land in any of the towns or settlements in this Territory, on which there is any water closet, privy or cesspool, who shall fail to keep the same in a healthful condition, either by the use of disinfectants or otherwise, who shall permit the same to become unhealthful or offensive to the public or any other person, is guilty of a misdemeanor.

SEC. 2. Any person convicted of violating any of the provisions of this act shall be fined not less than five dollars nor more than fifty dollars.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER XXXI.

AN ACT TO REGULATE THE PRICE FOR PUBLISHING TAX SALES AND OTHER LEGAL NOTICES. *C. B. 49; Approved February 14, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. All newspapers and printers in the Territory of New Mexico shall be entitled, for publishing tax sales and legal notices, to the following fees: For publishing any notice of sale for taxes, including heads and signatures for each tract other than town lots, for all the insertions, thirty-five cents, for each town lot, for all the insertions, twenty cents; for publishing any notice, when the time for the redemption of lands sold for taxes will expire, for each tract or lot of land other than town lots, for all the insertions, thirty-five cents; for each town lot, twenty cents; for publishing any legal notice, or any order, citation, summons, or any other proceeding or advertisement required by law to be published in any newspaper, at a rate not exceeding one dollar per square of two hundred and fifty ems for the first insertion, and sixty cents per square of two hundred and fifty ems for each subsequent insertion.

SEC. 2. When the county commissioners of the several counties have chosen a county printer, each county official shall employ the said printer for all county printing within his control, including the printing of tax sales and other legal work.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHAPTER XXXII.

AN ACT FOR THE INCORPORATION OF TOWNS AND VILLAGES IN THE TERRITORY OF NEW MEXICO, AND FOR OTHER PURPOSES. *C. B. 65; Approved February 14, 1891. Reg. vol. 2 93 pp 111 2-93 pp 133*

CONTENTS.

- SECTION 1. Village or town incorporation upon petition.
 SEC. 2. Area and population.
 SEC. 3. Board of county commissioners being satisfied shall locate a central monument and proclaim incorporation.
 SEC. 4. And call an election.
 SEC. 5. Qualification of electors.
 SEC. 6. Officers to be elected.
 SEC. 7. Powers and privileges vested in trustees.
 SEC. 8-15 Powers and privileges defined.
 SEC. 16. Clerk. Compensation.
 SEC. 17. Justice of the peace jurisdiction.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. When the inhabitants of a part of any county not embraced within the limits of any city or incorporated town in this Territory shall desire to be organized into an incorporated town or village, they may apply by petition in writing, signed by not less than a majority of the qualified voters residents of the territory to be embraced in the proposed incorporated town or village, to the board of commissioners of the proper county, which petition shall describe the territory proposed to be embraced in such incorporated town or village, and have annexed thereto an accurate map or plat thereof.

1/148 SEC. 2. The territory embraced in said proposed incorporated town or village shall not be less than one mile square nor more than two miles square: *2-93 pp 148* *Provided, also, The population embraced in such territory shall not be less than five hundred people.*

1/148 SEC. 3. When any such petition as herein provided shall be presented to the board of commissioners, which must be at a regular meeting, the same shall be filed in their office until the next regular meeting, and then after due consideration, if the commissioners are satisfied with the validity and good faith of, *20* said petition and the signatures thereto, and upon the deposit

of one hundred dollars for incidental expenses they shall cause the center of said proposed territory to be located by a permanent stone monument and the outer lines thereof by like stone monuments, so as to be easily determined by any one as to the limits of said incorporated town or village, and they shall forthwith issue an order, to be entered upon their records, declaring said town or village to be an incorporated town or village from that date, for purposes provided in this act only.

SEC. 4. It shall be their duty forthwith to call an election within said town or village so incorporated, to be held not less than thirty days from that date nor more than sixty. The election proclamation of said commissioners shall state the time, the voting place, and the officers to be voted for at said election.

SEC. 5. The qualifications for electors at said election shall be the same as those provided in this Territory for electors at the general elections held in this Territory, and no registration shall be required; but judges of election, to be appointed by commissioners, may require the sworn affidavit of any one applying to vote as to his qualification, and any person swearing falsely shall be liable to all the penalties under the statute of this Territory for perjury.

SEC. 6. At the election herein provided there shall be elected a town marshal and a board of trustees composed of five members, which board shall be known as the board of town or village trustees.

SEC. 7. All towns and villages incorporated and organized under this act shall have the general powers and privileges and be subject to the rules and restrictions granted and prescribed in the succeeding sections of this act, and the powers and authority here provided shall be vested in, exercised and put in force by the board of trustees herein provided.

SEC. 8. They shall have power by ordinance to prevent the injury or annoyance, within the limits of the incorporation, from anything dangerous, offensive, or unhealthful or indecent, and cause any nuisance to be abated; to regulate the transportation and keeping of gun-powder and other combustibles and explosives, and to provide for license magazines for the same; to prevent and punish fast or immoderate riding or driving of horses through the streets; to establish and regulate markets; to provide for the measuring or weighing of hay, coal, or any other article; to prevent any riots, noise, or disturbance, or dis-

orderly assemblages; to suppress and restrain disorderly houses or houses of ill fame, and to protect generally property of the corporation and its inhabitants and preserve peace and order therein.

SEC. 9. They shall have power by ordinance to make regulations for the purpose of guarding against danger from accidents by fire, and on petition of the owners of two-thirds of the grounds included within any square or block to prohibit the erection thereon of any building or any addition to any building unless the outer walls thereof be made of brick or other less combustible material, and provide for the removal of any building or buildings or additions erected contrary to such provision.

SEC. 10. They shall have the power by ordinance to provide a supply of water by the construction and regulation of wells, pumps, reservoirs, ditches, and to prevent the unnecessary waste and spreading or pollution of water within the corporate limits, and by ordinance may compel ditches to be so constructed and cared for as to prevent the streets or highways from being flooded or injured thereby, and they may go beyond their corporate limits and prevent or punish any pollution or fouling or injury to the stream or source of water which is supplied to said town.

SEC. 11. They shall have power by ordinance to restrict and regulate the running at large of cattle, horses, swine, sheep, burros, or other animals within the limits of the town, and to authorize the restraining, care, impounding and sale of the same for the penalty incurred and costs of proceeding, to prevent the running at large of dogs and to authorize the destruction of the same when at large contrary to the provisions to that effect.

SEC. 12. They shall have power to regulate or prohibit the sale of horses or other domestic animals at auction in the streets, alleys or highways, to regulate all carts, wagons, drays, coaches, omnibuses and other description of carriages that may be kept, and all houses of public entertainment, and to regulate by additional license the sale of intoxicating liquors, subject to the provisions of the law relating thereto.

SEC. 13. They shall have power to lay off, open, widen, straighten, vacate, extend, establish, improve, keep in order, repair and to light streets, alleys, public grounds, to open and construct, keep in order and repair sewers and drains, to enter upon and take for such of the above purposes as may be required 92-906/148

land or material, and to assess and collect, as other assessments and collections of taxes are made, on the lots or lands through or by which a street, alley or public highway may pass, for the purpose of defraying the expenses of constructing sidewalks and improving, repairing, or lighting such street, alley, or public highway in such proportion as to them shall seem just and equitable.

SEC. 14. They shall also by ordinance have the power to lay and levy a tax, just, proper, and equitable, upon all or a part of the property within the town or village, which tax shall be collected as other taxes are collected, for the purpose of defraying the expenses of improvement herein provided and of enforcing the ordinances which they may publish: *Provided*, That the taxes herein provided to be levied shall not exceed one-half of one per centum in any one year.

SEC. 15. They shall provide by ordinance all necessary regulations to protect growing trees and shrubs within the limits of the incorporation. They shall fix and determine by ordinance the compensation of the town marshal, which compensation shall not exceed fifty dollars per month. They may also, to carry out and enforce the ordinances, employ and properly compensate an attorney, to appear in any matter on behalf of the town or village in all matters in which said town or village may be interested.

SEC. 16. The board of trustees shall select a competent person for clerk of said board, prescribe his duties and fix his compensation, which shall not exceed twenty-five dollars per month.

SEC. 17. The justice of the peace of the proper precinct shall have jurisdiction of all violations of ordinances made and published by the board of trustees, under the provisions of this act.

SEC. 18. All acts and parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed, and this act shall take effect and be in force on and after the 1st day of April, 1891.

CHAPTER XXXIII.

AN ACT ENTITLED AN ACT TO CREATE THE OFFICE OF COUNTY SURVEYOR. *C. B. 18; Approved February 14, 1891.*

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- SECTION. 1. Creates the office of county surveyor. Term of office. Bond. Oath.
- SEC. 2. May appoint deputies.
- SEC. 3. Responsible for official misconduct or inefficiency to the injury of others.
- SEC. 4. Administer oath and take testimony.
- SEC. 5. Office and record books.
- SEC. 6. His work based upon U. S. system of surveys.
- SEC. 7. Shall not be molested or interfered with in the performance of duty. Penalty.
- SEC. 8. Chainmen. Compensation. County commissioners may obtain plats and field notes of original U. S. surveys for the office. Surveyors' certificate evidence in court.
- SEC. 9. Lands upon county line may be surveyed by surveyor of either county.
- SEC. 10. Boundary line between counties, how established.
- SEC. 11. Establishing new roads.
- SEC. 12. Per diem.
- SEC. 13. Surveys as evidence in court.
- SEC. 14. Subject to removal from office for cause.
- SEC. 15. Description for the purpose of assessment.
- SEC. 16. Not empowered to change established lines.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The office of county surveyor is hereby created in the several counties of the Territory of New Mexico. No person shall be eligible to or hold such office who is not a practical land surveyor actually engaged in the business. Until the next general election for county officers under the laws of the Territory, the office of county surveyor shall be filled by appointment of the board of county commissioners of the respective counties in this Territory. At the next general election held for the county officers in the several counties of this Territory, a county surveyor shall be elected for each county in the same manner that other county officers are elected; he shall hold his office for the term of two years and until his successor shall be elected and qualified. His term of office shall commence on the 1st day of January succeeding his election. Before entering upon the duties of his office he shall take the oath of office required by law of other county officers, and shall enter into bond to the Territory of New Mexico in the sum of five thousand dollars, with two good and sufficient sureties, to be approved by the board of

county commissioners, conditioned for the faithful discharge of the duties of his office.

SEC. 2. Each county surveyor, after being duly qualified as provided in the foregoing section, may appoint such number of deputy surveyors under him as he may think proper, not to exceed two, being responsible for the correctness of their official acts, each of which deputies shall respectively, before entering upon the duties of his office, take a similar oath or affirmation to that required of the county surveyor; and all official duties performed and surveys made by a deputy surveyor shall be signed by him officially, and shall be as good and valid in every respect as if the same had been done by the county surveyor: *Provided*, That in counties where there is no resident surveyor any competent surveyor resident of the Territory may be appointed.

SEC. 3. Any person who may be injured by the neglect, misconduct or inefficiency of any county surveyor or any of his deputies, may institute suit on the bond executed by such county surveyor and his sureties; and in case the party for whose benefit such suit may be brought shall obtain a judgment for any damage or loss by him sustained, he may sue out an execution on such judgment, as in other cases, and the bond may be sued on in like manner by each and every person aggrieved.

SEC. 4. When any county surveyor is called upon to make any survey or surveys which are to be used in any court, such county surveyor is hereby authorized and required, upon application of either party, to administer an oath or affirmation to any witness who may be brought to prove any corner or line of said survey or surveys, or of any natural or artificial object or mark which may be necessary to identify the same; which testimony shall be reduced to writing and subscribed by the witness or witnesses, and a return made thereof with the return of the surveyor.

SEC. 5. The county surveyor shall keep his office at the county seat, and shall keep two books of record, which shall be furnished him by the county commissioners for that purpose, which books he shall transmit to his successor in office. One book shall contain the calculations by latitudes and departures of all surveys made by him or his deputies, and each calculation shall have a corresponding number with the plat and field notes to which it refers in the book of records. The other book shall be a book of records and so constituted as to have the left page

for diagrams and plats, and the right page for notes and remarks; and each diagram and plat shall be numbered progressively, and the field notes of the survey so recorded shall contain a full statement of such surveys, with the variations of the magnetic needle, length of lines, location of corners, with description of such corners, also description of all witness trees, and other marks used as witness marks for such corners, with size, distance and course.

SEC. 6. All calculations to ascertain the contents of a tract of land by the county surveyor shall be made by latitudes and departures, and on each plat shall be laid down the variations of the magnetic needle from the true meridian. In re-establishing missing corners the county surveyor shall establish said corners in strict accordance with the manual of instructions of the United States to the United States deputy surveyors.

SEC. 7. If any county surveyor shall be molested or prevented from doing or performing any of his official duties by means of threats or improper interference of any person or persons, such surveyor shall call on the sheriff, constable or other peace officer of the county, who shall accompany him and afford him all necessary protection against any person or persons thus threatening or improperly interfering with any county surveyor while performing his official duties; such person or persons so offending shall, on conviction thereof before any court of competent jurisdiction, be fined in a sum not less than five dollars (\$5.00.) nor exceeding one hundred dollars (\$100.00.) and moreover be liable for all damages caused to any person by the hindrance of the surveyor, and also for all the expenses that may accrue in consequence of the attendance of the sheriff or officer and the delay of the surveyor: *Provided*, All fines imposed under the provisions of this section shall be paid to the county treasurer, for the benefit of the public school fund of said county.

SEC. 8. It shall be the duty of each county surveyor to employ competent persons to act as chainmen, and each chainman so employed shall, before he commences the duty assigned him, take an oath or affirmation to faithfully and impartially perform the duties of chainman, which oath or affirmation the county surveyor is authorized and required to administer. The expense of the chain carriers and cornerman shall be paid in advance, if required by the county surveyor or his deputy, by the

party on whose application the survey may be made, and the money so advanced shall be accounted for by the surveyor, and the amount expended to be taxed on the bill of costs: *Provided*, That there shall not be allowed to any chainman or marker a greater sum than two dollars (\$2.00) for each day that he may be actually employed: *Provided also*, That each surveyor shall have the right to retain the return of any survey by him made until he shall be paid the fee established by law, and shall also have the right to collect such fees by action. The county commissioners of each county in this Territory, at their discretion, may procure copies, duly certified by the Surveyor General to be correct, of the field notes and plats of the original surveys by the United States of the lands of their county, and shall have said plats and field notes bound, each substantially, in book form, which shall be kept in the said county surveyor's office for the benefit of the public. The certificate of the county surveyor or any of his deputies as to the correctness or accuracy of any survey, plat or field notes made by such surveyor or any of his deputies, or any certified copy thereof, shall be admitted as legal evidence in any court of the Territory only when the surveyor may be dead, or when it shall be impossible to obtain his evidence either by his personal attendance or by means of a deposition taken according to law, but may be explained or rebutted by other evidence. The county surveyors of the different counties of this Territory are hereby authorized to administer all oaths or affirmations necessary to be administered to road viewers, and for all other purposes necessary to the discharge of their official duties: *Provided*, That a copy of all surveys shall be filed with the clerk of the board of county commissioners by the said county surveyor.

SEC. 9. Any person owning or claiming lands where the same are divided by a county line, and wishing to have such lands surveyed, may apply to the surveyor of any county in which any part of such land is situate, and on such application being made the surveyor is authorized to make such survey, which shall be as valid as though such lands were situate entirely in one county.

SEC. 10. Where a boundary line between two counties is to be established, the county surveyors, or their deputies, of the two counties affected by such boundaries, shall together make the survey and establish the lines and erect monuments, and all

corners set by the county surveyor or his deputies shall be made in strict conformity with the manual of instructions of the United States.

SEC. 11. All county surveying, engineering on roads and bridges, shall be performed by the county surveyor, and he shall by virtue of his office be one of the viewers in the establishing of new roads or the location of bridges.

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SEC. 12. The county surveyors shall be allowed five dollars per day and expenses for any work they may do for the county, the expenses to be certified under oath. Private individuals may contract for their work.

SEC. 13. All surveys made under and by virtue and in compliance with the provisions of this act shall be deemed and taken to be in all counties of this Territory as prima facie correct, and the survey books in this act provided shall be received in evidence in all courts of this Territory only when the surveyor may be dead, or when it shall be impossible to obtain his evidence either by his personal attendance or by means of a deposition taken according to law.

SEC. 14. The board of county commissioners of any county in this Territory shall have the power and are required to remove any county surveyor who is of dissipated habits so as to disqualify [him] from performing his duties as surveyor at all times.

SEC. 15. All surveys made by the county surveyors of the several counties in accordance with this act, which are not government subdivisions, shall be numbered with a consecutive series of numbers, commencing with 37, and it shall be the duty of the assessor in each county to enter for taxation in his book all lands liable for taxation, referring to them by the proper number as designated by the county surveyor in his records.

SEC. 16. Nothing in this act shall be construed to empower any county surveyor to change the established lines or corners of any land owned or possessed by any person or persons, and no private lands shall be surveyed except by the consent of the owner of said land.

SEC. 17. This act shall take effect and be in full force from after its passage.

CHAPTER XXXIV.

AN ACT IN RELATION TO LIVE STOCK. *H. B. 102; Approved February 14, 1891.*

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- SECTION 1. Additional powers of Sanitary Board.
 SEC. 2. Make necessary rules for inspection of cattle to be shipped, and of hides.
 SEC. 3. Record of inspection and what to contain.
 SEC. 4. Cattle to be taken out shall be held for inspection at some convenient point within the Territory.
 SEC. 5. Railroad companies shall not transport beyond Territorial boundary before inspection. Penalty.
 SEC. 6. Inspection upon application, when without delay and convenient, free of charge.
 SEC. 7. Duties of appointed inspectors. Shall make reports.
 SEC. 8. Duties of secretary of board respecting brands and ear marks and removal of cattle from the Territory.
 SEC. 9. Record to be kept by the secretary of the board.
 SEC. 10. Malfeasance of any inspector. Penalty.
 SEC. 11. Compensation of secretary. Duties. Oath. Bond.
 SEC. 12. Compensation of employes, and how paid.
 SEC. 13. Removal of cattle without inspection a misdemeanor. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That in addition to the powers and duties now conferred and prescribed by law to be exercised and performed by the Sanitary Board created by an act of the Legislative Assembly of this Territory, entitled, "An Act to prevent the introduction of diseased cattle into New Mexico," which became a law on the 28th day of February, 1889, the said Sanitary Board shall have and exercise the powers and shall perform the duties prescribed by this act.

SEC. 2. In the exercise of the powers and performance of the duties conferred and prescribed by this act, the said Sanitary Board shall and may make all necessary rules and regulations respecting the inspection of cattle intended for shipment or to be driven beyond the limits of this Territory; and also respecting the inspection of hides and slaughter houses in this Territory, and for the government of all employes of said Sanitary Board.

SEC. 3. It shall be the duty of said Sanitary Board to cause to be inspected the brands and ear marks upon the cattle shipped or driven out of this Territory, and to cause to be kept and

preserved a true and correct record of the result of such inspections, in the office of the secretary of said Sanitary Board, which record shall set forth the date of the inspection, the place where, and the person by whom made, the name and postoffice addresses of the owner, shipper or claimant of the cattle so inspected, and the names and postoffice addresses of all persons in charge of such cattle at the time of the inspection, the destination of such cattle, as well as a list of all brands and ear marks upon the cattle so inspected, and the number and classification of such cattle.

SEC. 4. It shall be the duty of every person shipping or driving any cattle out of this Territory to hold the same at some convenient place for inspection, as provided by this act, and it shall be unlawful for any person to ship, drive or in any manner remove beyond the boundaries of this Territory any herd or band of cattle until they shall have been inspected as provided by this act.

SEC. 5. It shall be unlawful for any railroad company to receive any herd or band of cattle for transportation to a point beyond the boundaries of this Territory until the same shall have been inspected, as required by this act, and until such railroad company shall have been furnished with a certificate by a duly authorized inspector, showing that the brands and ear marks upon such cattle have been duly inspected as required by this act, and any railroad company or any officer, agent or servant of a railroad company, who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than one hundred dollars and not more than five thousand dollars, in the discretion of the court.

SEC. 6. Every person, company or corporation, or their or either of their agents, servants or employes, having in charge cattle destined for transportation by rail or to be driven beyond the limits of this Territory, may make application to the proper inspector to inspect the brands and ear marks of any such cattle, stating in such application the time and place, when and where said cattle will be ready for inspection, and it shall be the duty of such inspector, or of some other inspector to be designated by the said Sanitary Board, to attend at the time and place designated in such application and inspect the said cattle, make the record and give the certificate required by the provisions of

this act, free of charge, to the owner of said cattle: *Provided, however,* That in the case of cattle transported out of this Territory by rail, the place of inspection shall be at some stock yards, or other convenient place near the proposed point of shipment of said cattle from the Territory: *And provided further,* That if the owner or person in charge of said cattle shall cause any unreasonable delay or loss of time to such inspector, such owner or person in charge of any such cattle shall pay the expenses and salary of such inspector during such delay or loss of time.

SEC. 7. Every inspector employed by the Sanitary Board under the provisions of section 10 of the act entitled, "An Act to prevent the introduction of diseased cattle into New Mexico" shall, in addition to the duties prescribed by the said act, be an inspector of brands and ear marks, and also an inspector of hides and slaughter houses under the provisions of this act, and it shall be the duty of some one of such inspectors to inspect the brands and ear marks of all cattle transported or driven out of this Territory, and to make a sworn report to the secretary of the said Sanitary Board of the result of such inspection at least once in every thirty days and oftener if, in the opinion of the Sanitary Board, it shall be necessary to do so; every slaughter house in this Territory shall be carefully inspected by some one of the inspectors aforesaid, and all hides found in such slaughter houses shall be carefully compared with the records of such slaughter houses, and a report in writing setting forth the number of cattle killed at any such slaughter house since the last inspection (or since the passage of this act, as the case may be), the names of the persons from whom each of said cattle was bought, the brands and marks upon each hide, and any information that may be obtained touching the violation by the owner of any such slaughter house, or any other person, of the provisions of an act entitled, "An Act for the protection of stock, and for other purposes," approved April 1, 1884. For the purpose of making the inspection authorized by this act, any inspector employed by the said Sanitary Board shall have the right to enter in the day or night time any slaughter house or other place where cattle are killed in this Territory, and to carefully examine the same, and all books and records required by law to be kept therein, and to compare the hides found therein with such records. Any person who hinders or obstructs, or attempts to hinder or obstruct any inspector employed by the said Sanitary

Board in the performance of any of the duties required of him under the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding one hundred dollars, at the discretion of the court trying the case.

SEC. 8. Any person being the owner of a recorded brand in this Territory may file in the office of the secretary of said Sanitary Board a copy of his or her brand or brands and ear marks, and after the filing of such copy with said secretary it shall be the duty of said secretary to notify any persons having a copy of his brand on file in said office, of the removal from the Territory of all cattle in such brand and ear mark, giving full particulars as to time and place of inspection and shipment or removal of any such cattle, and the names and postoffice addresses of all persons in charge of such cattle at the time of inspection.

SEC. 9. The records required to be kept by the secretary of the said Sanitary Board shall be kept in a well bound book, to be provided by the board for that purpose, and a certified copy of any such record under the hand and seal of the secretary of said board shall be prima facie evidence in all courts of this Territory of the truth of any fact required to be recorded therein by this act.

SEC. 10. Any inspector employed by the said Sanitary Board who shall knowingly make any false certificate under the provisions of this act, or who shall knowingly swear falsely as to the truth of any report made by him to the secretary of said Sanitary Board, or who shall accept any bribe or compensation for the performance or failure to perform any of the duties prescribed by this act, except such compensation as may be paid him by the said Sanitary Board, shall upon conviction thereof be fined in any sum not exceeding one thousand dollars, or imprisoned in the Territorial prison not exceeding five years, at the discretion of the court.

SEC. 11. The secretary of the said Sanitary Board shall receive such compensation as shall be fixed by the said board, not exceeding one thousand dollars per annum. He shall keep a record of all inspections of brands and ear marks in well bound books to be provided for that purpose, and shall perform such other duties as shall be prescribed by the board. He shall take and subscribe an oath faithfully to perform all of his du-

ties as secretary of such board, and shall enter into bond in the penalty of five thousand dollars, with good and sufficient sureties, to be approved by the said Sanitary Board, conditioned for the faithful performance of his duties. Any person injured by any misfeasance, malfeasance or non-feasance of the said secretary may institute an action on said bond in the name of the Territory of New Mexico, for his use and benefit, in any court of competent jurisdiction, and recover thereon such damages, not exceeding the penalty of the bond, as he shall have sustained by such misfeasance, malfeasance or non-feasance.

SEC. 12. The salaries of all employes and all other expenses incurred by the said Sanitary Board shall be paid as now provided by law, except that in addition to moneys hereafter to be raised by taxation all surplus moneys now in the treasury arising from the special tax known as the cattle indemnity fund, shall be available for that purpose.

SEC. 13. Any person, firm or corporation who shall violate any of the provisions of this act, or who shall remove any cattle beyond the limits of this Territory, without having the same inspected as required by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars and not more than five thousand dollars, in the discretion of the court; but nothing in this act contained shall be construed as in any manner affecting the laws now in force respecting the larceny of cattle.

SEC. 14. This act shall take effect and be in force from and after the 15th day of March, 1891, and all acts and parts of acts in conflict with this act are hereby repealed.

CHAPTER XXXV.

AN ACT TO ESTABLISH ARBOR DAY. *C. B. 75; Approved February 16, 1891.*

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SECTION 1. Second Friday in March set apart as "Arbor Day." *Provided, etc.*

SEC. 2. The day shall be a holiday in public schools, and officers and teachers are required to observe the day.

SEC. 3. Governor's proclamation. Superintendent of schools shall make report to Governor.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The second Friday in March of each year shall be set apart and known as "Arbor Day," to be observed by the people of this Territory in the planting of forest trees for the benefit and adornment of public and private grounds, places and ways, and in such other efforts and undertakings as shall be in harmony with the general character of the day so established: *Provided*, That the actual planting of trees may be done on the day designated or at such other most convenient times as may best conform to local climatic conditions, such other time to be designated and due notice thereof given by the several county superintendents of schools for their respective counties.

SEC. 2. The day as above designated shall be a holiday in all public schools of the Territory, and school officers and teachers are required to have the schools under their respective charge observe the day by planting of trees or other appropriate exercises.

SEC. 3. Annually, at the proper season, the Governor shall issue a proclamation, calling the attention of the people to the provisions of this act, and recommending and enjoining its due observance. The respective county superintendents of schools shall also promote by all proper means the observance of the day, and the said county superintendents of schools shall make annual reports to the Governor of the Territory of the action taken in this behalf in their respective counties.

SEC. 4. This act shall take effect and be in force from and after its passage.

CHAPTER XXXVI.

AN ACT TO AMEND SECTION 5 OF CHAPTER 56, SESSION ACTS 1889. *H. B. 70; Approved February 16, 1891.*

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SECTION 1. District attorney and districts. Two years residence to be obligle.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 5 of chapter 56, session acts 1889,

entitled "An Act with reference to the offices of solicitor general and district attorneys, and for other purposes," be and the same is hereby amended to read as follows:

"Section 5. There shall be a district attorney learned in the law, nominated, and by and with the consent of the Legislative Council appointed by the Governor for the following counties, to-wit: One for the counties of San Miguel and Mora, one for the counties of Colfax and Taos, one for the counties of Santa Fe, Rio Arriba and San Juan, one for the counties of Grant and Sierra, one for the counties of Lincoln, Chaves and Eddy, one for the county of Doña Ana, one for the county of Socorro, and one for the counties of Bernalillo and Valencia, each of whom shall reside, after his appointment and during his term of office, in some one of the counties for which he is district attorney, and each of whom shall hold his office for the period of two years from the date of his appointment: *Provided*, That no person shall be appointed under this section who shall not have lived in the Territory for two years next preceding the date of his appointment."

SEC. 2. Nothing in the section preceding shall be construed to affect the appointment or appointments heretofore made under the provisions of the section by this act amended.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHAPTER XXXVII.

AN ACT REPEALING SECTION 3 OF CHAPTER 130, SESSION LAWS 1889 AND PROVIDING A SUBSTITUTE THEREFOR. *H. B. 50*;
Approved February 17, 1891.

CONTENTS.

Relates to stock growers furnishing good bulls in proportion to the stock. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 3 of chapter 130, session laws 1889, entitled "An Act to amend section 9 of an act for the protec-

tion of stock, and for other purposes," be and the same is hereby repealed.

SEC. 2. That section 3 of said act shall read as follows, to wit:

"Section 3. Hereafter it shall be unlawful for any person or persons, company or corporation to turn loose upon any common or public range in this Territory any she or female cattle unspayed and over the age of nine months without at the same time turning loose and keeping herded with the same, at the rate of at least one good bull, not less than nine months nor more than eight years old, of at least one-half pedigree stock, to every twenty head of such she or female cattle: *Provided*, That any person or persons, company or corporation, now owning such she or female cattle upon any common or public range in this Territory, and not having with said cattle such bull or bulls of number and kind as herein described, shall procure the same and turn them loose with said cattle on or before the 1st day of January, 1892; and any person or persons, company or corporation, violating the provisions of this act shall, upon conviction thereof, be punished by a fine of not less than twenty-five nor more than five hundred dollars, and be liable to the person or persons injured or damaged by such violation in an action at law for the amount of the injury or damage sustained: *Provided further*, That the words, 'pedigree bull, shall not be construed to mean a Texas or Mexican bull."

SEC. 4. This act shall take effect and be in force from and after its passage.

CHAPTER XXXVIII.

AN ACT TO ENCOURAGE THE DESTRUCTION OF WOLVES AND LIONS.
C. B. 52; Approved February 17, 1891.

CONTENTS.

- SECTION 1. On petition county commissioners may order the payment of a bounty on lions and gray wolves.
- SEC. 2. Application for bounty. Record. Scalps.
- SEC. 3. Claims for bounty shall be passed upon as other claims against the county. Destruction of scalps.
- SEC. 4. May levy a special tax for the purpose.
- SEC. 5. Order to pay bounty shall be published.
- SEC. 6. False swearing.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Whenever in any county of this Territory a petition signed by not less than one hundred persons payers of taxes in such county shall be presented to the board of county commissioners of the county, asking for such an order as is hereinafter described, it shall be the duty of the said board immediately to make an order and spread the same on the record of their proceedings to the effect that there shall be paid from the county treasurer for each mountain lion and each large gray wolf, or lobo, killed within the county, a sum of money not exceeding seven and one-half dollars, upon proof of the killing as hereinafter provided.

SEC. 2. Any person applying for the payment to him of the money so ordered to be paid shall file with the county clerk a statement in writing under oath describing the animal or animals killed and setting forth when and where each one was killed, the residence of the applicant, and that the animal or animals were killed within the county. Such statement shall be accompanied with the scalp of each animal, including the ears and the skin of the face down to the tip of the nose. The county clerk shall keep a record of all such statements received by him in a book kept for the purpose by him in his office, and shall present all such statements and scalps to the board of county commissioners as soon after they are received by him as said board shall be in session.

SEC. 3. At each session of the board of county commissioners all such statements shall be taken up and passed upon, the same as other claims against the county; and if said board shall be satisfied of the truth of any such statement, and such statement is accompanied by the number of scalps necessary to substantiate its averments, said board shall order the claim paid, like any other county indebtedness. All scalps presented with any statement shall, immediately after the claim is passed upon, be destroyed by or in the presence of the board, and such destruction shall include the cutting of each scalp in at least two pieces, separating the ears.

SEC. 4. Any board of county commissioners making such order as is provided for in the first section of this act is authorized when, in the opinion of the board, it may be necessary to levy a special tax not exceeding one-half of one mill on each dol-

lar of taxable property in the county, for the purpose of raising funds from which to make the payments provided for in this act.

SEC. 5. When any such order as is provided for in section 1 of this act shall be made, a copy thereof shall be printed in some newspaper published in the county, not less than six times in each year during which it continues in force, and at least one copy in each such year shall be posted up in some conspicuous place in each precinct of the county.

SEC. 6. Any false swearing in making oath to the statements required by this act shall be perjury.

SEC. 7. This act shall be in full force from and after its passage.

CHAPTER XXXIX.

AN ACT MAKING AN APPROPRIATION FOR THE CONSTRUCTION OF A SUITABLE BUILDING FOR THE TERRITORIAL INSANE ASYLUM OF NEW MEXICO. *C. B. 115; Approved February 18, 1891.*

CONTENTS.

SECTION 1. \$25,000 in bonds appropriated for erection of Insane Asylum.

SEC. 2. Funds appropriated by section 1 shall be exclusively for purposes stated.

SEC. 3. Board of Directors to immediately decide on plans and as soon as practicable erect building.

SEC. 4. Auditor authorized to draw warrants.

SEC. 5. Contracts shall not be let except upon newspaper notice and to the lowest bidder.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. For the purpose of carrying into effect this act the sum of twenty-five thousand dollars of the bonds of the Territory is hereby appropriated. Such bonds shall be issued as near as possible in conformity with the provisions of section 6 of an act entitled "An Act relating to the finances of the Territory of New Mexico," approved February 8, 1889. Said bonds shall bear interest at the rate of six per cent per annum, with coupons attached. The first coupon to be paid on January 1, A. D. 1892, and thereafter the coupons shall be paid semi-annually. Said bonds shall become due twenty years from the date of their issue, and shall be due and absolutely payable after

thirty years from the date of their issue. And the above named bonds are issued for the purpose of erecting a suitable stone building for the Territorial Insane Asylum located at Las Vegas, New Mexico: *Provided*, There shall be no levy made for the final redemption of the bonds named in this section until within one year previous to their maturity, and from that date there shall be levied, each year, a sufficient amount to pay said bonds in full, at the expiration of thirty years from their issue.

SEC. 2. The funds appropriated by section 1 of this act shall be used exclusively for the purpose therein stated.

SEC. 3. It shall be the duty of the Board of Directors of the Territorial Insane Asylum, on the passage of this act, to immediately decide on the plans and specifications for the above named buildings, and as soon as practicable to proceed to erect the same.

SEC. 4. The Auditor of the Territory is hereby authorized to draw warrants on the funds appropriated by section 1 of this act, upon presentation of certificates by the Board of Directors of the Insane Asylum, signed by the president of the board and countersigned by the secretary.

SEC. 5. That no contract shall be let for the furnishing of the material, or any portion of the material, used in the erection of said building, or for the construction thereof, until the Board of Directors shall have given sixty days notice in one weekly newspaper published in Santa Fe, Las Vegas and Albuquerque, each, of the intention to purchase such material and let such contract, and all contracts shall be let to the lowest responsible bidder or bidders, who shall give good and sufficient bonds, with two or more sufficient sureties, for the fulfillment thereof, according to the terms of the contract.

SEC. 6. This act to take effect and be in force from and after its passage.

CHAPTER XL.

AN ACT TO AMEND AN ACT, THE REVEUE LAW, AND TO PROVIDE
FOR THE TAXATION OF SHARES OF STOCK IN CORPORATIONS.
H. B. 108; Approved February 20, 1891.

CONTENTS.

SECTION 1. A chief officer of a banking establishment shall deliver to the assessor a list of all shares and pay the taxes.

SEC. 2. Failure to comply. Penalty.

SEC. 3. Shall be assessed and taxed where located.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Persons owning shares of stock in banks, or any joint stock institution or association doing a banking business, incorporated under or by any law of the United States or of this Territory, are not required to deliver to the assessor a list thereof; but the president, cashier or other chief officer of such corporation or association shall make out and deliver to the assessor, at the time provided by law for listing property for taxation, a list of all shares of stock held therein, the actual cash value of such shares at the time, and the names of the persons holding the same, verified by the oath of such officer. The taxes assessed on such shares of stock shall be paid by the president or cashier of said corporation, and they may deduct the amount from the dividends accruing on such shares, which amount so paid shall be a lien on such shares.

SEC. 2. If the proper officer of any corporation mentioned in the preceding section, shall fail to comply with the provisions, he may be compelled to do so under the writ of mandamus, and shall forfeit to the Territory the sum of one thousand dollars, to be adjudged against him in such proceeding.

SEC. 3. All shares of stock in any such bank, joint stock institution, association, or company, shall be assessed, and the taxes thereon paid in the precinct, corporated town or city and county where such bank, joint stock institution, association, or company may be located or have its principal place of business in this Territory, and not elsewhere, whether the owner or holder of such shares resides there or not; but such shares shall not be assessed at or taxed at a greater rate than is assessed or taxed

on other moneyed capital in the hands of individuals, and due allowance shall be made in assessing such shares for the value of any property of such bank, joint stock institution, association or company on which such bank, joint stock institution, association or company may be assessed or pay taxes.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 5. This act shall take effect and be in force upon its passage.

CHAPTER XLI.

AN ACT FOR THE SETTLEMENT OF DOWER RIGHTS. *H. B. 144;*
Approved February 20, 1891.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Whenever any real estate shall be the property of one or more persons, subject to the dower right of another person, the respective ownership in said real estate may be determined as follows: Any owner of an interest in said real estate may apply at any time to the district judge of the district in which said premises are situated by verified petition setting forth the description of said real estate, the names of all parties interested therein, and whether any of said parties are infants or absentees. If all the parties interested are adult residents of the Territory, notice of the presentation, of such petition shall be served personally on all of such parties at least twenty days before the time of such presentation, and proof of such service shall be furnished to the judge at the time of making said application. If any of such parties are absentees the judge shall fix the method of serving the notice, which shall include the publication of such notice and the mailing of the same to the party to be served, at his last known place of residence. If any of such parties are infants, the judge shall appoint a guardian ad litem for such infants and direct the method of service on such infants and guardian. Upon the coming in of the application, with proof of service on all parties interested, the judge shall first ascertain whether an agreement can be made between

the parties, either by the payment to the owner of the dower right of a sum of money in consideration of her relinquishment of her interest in the real estate or by the setting apart of a portion of such real estate for her use during her life. If such an agreement can not be made, the judge shall proceed either personally or by a master to be by him appointed to take proofs regarding the said real estate and the respective interests of the various parties therein: *Provided*, That when the value of the entire real estate does not exceed five hundred dollars, said proofs shall be taken by the judge. He shall ascertain whether said real estate is capable of division without serious injury to its value, and whether the interests of the widow entitled to dower will be best served by the possession of her portion of the premises or by the sale of the whole. At the conclusion of the testimony he shall file his judgment in writing determining:

1. Whether said premises shall be divided or sold.
2. If to be divided, setting forth distinctly the portion set apart for the widow entitled to dower, for her use during her life.
3. If to be sold, naming the master to sell and directing the method of sale and conveyance.

In case of a sale, after the coming in of the report of the master appointed to sell, the judge shall determine the amount of the proceeds thereof to which the owner of the dower right, and each of the other parties interested, is entitled, and shall adjudge accordingly.

The costs of the proceedings shall be borne by all the parties interested in proportion to their respective interests, but shall in no case exceed ten per cent of the value of the property.

CHAPTER XLII.

AN ACT TO AMEND AN ACT OF THE 28TH LEGISLATIVE ASSEMBLY, ENTITLED "AN ACT TO ESTABLISH AND PROVIDE FOR THE MAINTENANCE OF THE UNIVERSITY OF NEW MEXICO, THE AGRICULTURAL COLLEGE AND AGRICULTURAL EXPERIMENT STATION, THE SCHOOL OF MINES, AND THE INSANE ASYLUM, AND FOR OTHER PURPOSES." *H. B. 104; Filed by the Governor February 21, 1891.*

CONTENTS.

SECTION 1. Power to provide a salary for the secretary and treasurer of the several boards.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 65 of an act of the 28th Legislative Assembly of the Territory of New Mexico, entitled "An Act to establish and provide for the maintenance of the University of New Mexico, the Agricultural College and Agricultural Experiment Station, the School of Mines, and the Insane Asylum, and for other purposes," approved February 28, 1889, be and is hereby amended so as to read as follows, to-wit:

"Section 65. The several boards provided for in this act shall have power in their discretion to provide that their several secretaries and treasurers shall receive a salary not to exceed fifty dollars per month: *Provided*, That the secretary and treasurer of the Board of Regents of the Agricultural College shall receive a salary of one hundred dollars per month.

SEC. 2. This act shall be in force and take effect from and after its passage.

CHAPTER XLIII.

AN ACT IN RELATION TO SPECIAL ASSESSMENTS BY MUNICIPAL CORPORATIONS. *H. B. 145; Approved February 21, 1891.*

CONTENTS.

SECTION 1. Municipal Incorporations may assess for improvements in streets and side-walks.

SEC. 2. May order improvements.

SEC. 3. Levying of assessments shall be under a general ordinance and upon petition.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That municipal corporations may assess for street improvements, such as paving, grading, curbing and other work done and material furnished therefor between side-walks and opposite sides of said streets, the whole or a portion of the costs of such improvements upon the lots and land adjoining said streets and especially benefited thereby, according to the frontage of said lots and land, whether said frontage be as to width or depth of said lots and land.

SEC. 2. That municipal corporations shall have the power to order pavements and sidewalks and repair of same, and upon failure of the owners or persons in charge of the property adjoining said pavements and sidewalks to comply with such order within a time reasonably prescribed, the city council or board of trustees may have the same done and assess the cost thereof upon said adjoining property.

SEC. 3. That the levying of assessments provided for by the two preceding sections shall be under a general ordinance prescribing the manner thereof and upon petition of owners of at least one-half of the property frontage of the block fronting on the improvements to be made, and be subject to the provisions of section 1635 of the Compiled Laws of New Mexico, 1884; and said assessments when levied shall create a lien upon such adjoining property, to be collected under the provisions of subsection 75 of section 1622 and section 1660 of said Compiled Laws.

SEC. 4. That all laws in conflict herewith are hereby repealed. This act shall take effect and be in force from and after its passage.

CHAPTER XLIV.

AN ACT IN RELATION TO TOLL BRIDGES AND FERRIES AND THE
MANAGEMENT THEREOF. *II. B 79; Approved February*

21, 1891.

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CONTENTS.

- SECTION 1.** Incorporation. Plat or profile shall be filed with certificate. Board of county commissioners grant the exclusive franchise.
- SEC. 2.** County commissioners to fix rates of toll subject to approval of district court.
- SEC. 3.** Power and authority to charge and collect toll. Attempting to use without paying toll subject to penalty.
- SEC. 4.** Subject to pay damages caused in consequence of ill condition of road, bridge or ferry.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That whenever any three or more persons, residents of this Territory, shall associate themselves together for the construction, operation and maintenance of any wagon road, wagon bridge or ferry in this Territory, under the provisions of this act, they shall file a certificate in addition to the articles and certificate now required by law, stating as near as possible the line or route and termini of such proposed toll wagon road, the name and place of the stream proposed to be crossed by such toll bridge or ferry, and with such certificate must be filed by such corporation a plat or profile, with the clerk of the probate court of the county or counties in or through which such proposed toll road or ferry is to be built, constructed and maintained, which plat or profile shall show as near as possible the route of such proposed road and the place of constructing such bridge or ferry, showing in such certificate and plat or profile the distance along the stream on either side from said proposed bridge or ferry, proposed to be claimed as a franchise for such purposes, and from and after the time such certificate and plat or profile shall be filed as aforesaid, and after the same shall be presented to the board of county commissioners of any county in or through which the toll road, bridge or ferry is to be constructed, kept and maintained and the franchise therein claimed and allowed by the board of county commissioners as aforesaid, such corporation shall have the exclusive right, privilege and franchise so allowed by said board of commissioners, for the

period of six months, and no longer, unless the board of county commissioners shall extend the time on petition in writing by the corporation so interested.

SEC. 2. That such corporation may after the completion of such wagon road or any part thereof, and after the completion of any such bridge or ferry for and by the traveling public, apply by petition in writing to the board of county commissioners of the county or counties in or through which such road, bridge or ferry is or has been constructed, for rates, prices and tolls to be charged and collected from the traveling public so using and traveling on such toll road, bridge or ferry, which petition shall state such facts in reference to a road, bridge or ferry, as will be sufficient to inform the board of commissioners as to enable the commissioners to fix the rates, tolls and charges, equal and just between the corporation owning the road, bridge or ferry and the traveling public using the same, and the rates, tolls and charges so fixed shall remain the same for two years, and at the expiration of each two years the corporation shall petition as aforesaid for the fixing of the rates, tolls and charges by the board of county commissioners. In case the corporation shall be dissatisfied with the rates, tolls and charges so fixed by the board, it may appeal within ten days from such decision and determination to the judge of the district court of the county in which the road, bridge or ferry is situated, by paying to the clerk of the probate court of the county in which the matter is pending, one dollar, who shall, upon such payment being made, at once transmit all the papers in the case on file in his office to the clerk of the district court to which the appeal is taken, and the corporation shall then present the matter to the district judge, who shall at once appoint three disinterested citizens and tax payers of the county to examine the road, bridge or ferry, and report their finding and fixing of rates, tolls and charges in writing and under oath to the said judge, within the time by him to be fixed, and unless it shall appear to the judge that manifest injustice has been done by the persons appointed, he shall approve the report, and the rates so fixed shall remain for the ensuing two years, which commissioners so appointed shall be paid by the corporation so appealing for their services, such sum and on such terms as the judge may allow, together with the other costs incurred by such appeal.

SEC. 3. That any such corporation so constructing, keeping

and maintaining any such wagon road, bridge or ferry shall have power and authority to charge, receive and collect the rates, tolls and charges fixed as aforesaid from any person or persons, companies or corporations so using such road, bridge or ferry; and to prohibit any such persons from using the same until the rates, tolls and charges are paid or tendered; and any such persons using or attempting to use the same until the rates, tolls and charges are so paid or tendered shall be deemed guilty of a misdemeanor, and on conviction thereof before any justice of the peace having jurisdiction shall be fined in any sum for each offense not less than five dollars nor more than ten dollars, said fine to go to the public school fund of the county.

SEC. 4. That the corporation and the individual owners of any such wagon road, bridge or ferry shall be liable in damages to any person so using the same for any injuries to person or property caused by the neglect, fault or omission to keep said road, bridge or ferry in good and safe condition, which damages may be recovered by law by any court having jurisdiction of the amount in controversy.

SEC. 5. That all laws and parts of laws in conflict with this act are hereby repealed, and this act shall take effect from and after its passage.

CHAPTER XLV.

AN ACT RELATIVE TO THE KILLING OF ANIMALS. *H. B. 112;*
Approved February 21, 1891.

CONTENTS.

SECTION 1. Hides and pelts must be held subject to inspection.

SEC. 2. Penalty.

SEC. 3. Inability or refusal to show hides prima facie evidence of violation of law.

SEC. 4. \$50 license for peddling meat.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Any person killing or causing to be killed any bovine cattle or sheep for his own use, or for the use of others, or for the purpose in whole or in part of sale or exchange, is hereby required to keep in his own possession, unchanged and

unmutilated, and in condition to be easily inspected and examined, all hides and pelts of such bovine animals, including the ears, for the period of thirty days after the killing, and of sheep ten days after the killing, and shall at any time while such hides or pelts remain in his possession permit the same to be inspected and examined by any sheriff, deputy sheriff, or constable, or by any board, or inspector or other officer authorized by law to inspect any hides and pelts or animals, whether dead or alive: *Provided, however,* That the provisions of this act shall also apply to the killing by persons engaged in any public round-up of animals for the use in connection with the making of such round-up.

SEC. 2. Each violation of the provisions of this act shall be punished, in the discretion of the court in which a conviction is had, by a fine of not less than twenty-five nor more than one hundred dollars, or by imprisonment not exceeding three months, or by both such fine and imprisonment.

SEC. 3. Inability or refusal to show such hides or pelt to any proper authority within said period of thirty days, or a refusal to so show it at any time thereafter while remaining in the possession of the person by or for whom the animal was killed, shall be prima facie evidence of a violation of the provisions of this act, and shall be competent evidence to go to the jury upon the trial of any indictment against such person or persons for the larceny of any animal or animals, or for the receiving of stolen property.

SEC. 4. *Provided, further,* That any person or persons not having a regular butcher shop, market or stall, but who engages in the business of peddling meats in any town, plaza or settlement, or mining camp in this Territory, shall pay a license of fifty dollars, which when collected shall go to the school fund, to be paid annually in advance. *
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SEC. 5. All laws and parts of laws in conflict with this act are hereby repealed, and this act shall be in force from and after its passage; but this act shall not be construed as repealing or in any manner changing the provisions of sections 71 to 75, both inclusive, of the Compiled Laws of 1884.

CHAPTER XLVI.

AN ACT TO REQUIRE THE PUBLICATION OF LEGAL NOTICES IN ENGLISH AND SPANISH. *H. B. 99; Approved February 21, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. All legal process against non-residents, unknown or absent parties, notices of sales of real estate under foreclosure of mortgages or executions, trespass warnings, and other documents, the publication of which is now or may hereafter be required by law to be made by posting written or printed notices in public places, may be published instead of being posted up, in English and Spanish in some newspaper published in the county, if there be one; if not, then in some newspaper published in some other county of the Territory for the same length of time it may be required to be posted, and when so published it shall not be necessary to post such notices in public places: *Provided*, That the person who may have to pay for such publication shall have the right to designate the newspaper in which the same may be published: *And provided further*, That no newspaper shall be allowed to charge more than the price now fixed by law to be charged for legal advertisements.

SEC. 2. This act shall be in force and effect from and after its passage.

CHAPTER XLVII.

AN ACT RELATING TO PROCESS ISSUING OUT OF THE DISTRICT COURT, IN THE TERRITORY OF NEW MEXICO. *C. B. 72; Approved February 21, 1891.*

CONTENTS.

SECTION 1. Process not served in time by law for one term, shall be held returnable to the next succeeding term.

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Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That hereafter whenever any writ or process issued out of the district courts shall be served within a less time before the return day thereof than is required by law, it shall not be necessary to sue out alias or subsequent process and have the same served; but the process so served shall be held returnable to the next succeeding term of the court out of which the same issued; and the party against whom such process runs shall be held to enter his appearance at the next succeeding term, and default upon failure so to appear may be entered and prosecuted to final judgment, as in other cases.

SEC. 2. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed, and this act shall be in force and take effect on and after its passage.

CHAPTER XLVIII.

AN ACT TO AMEND CHAPTER 76 OF THE LAWS OF 1889, ENTITLED "AN ACT TO PROVIDE FOR THE MAINTENANCE, GOVERNMENT AND POLICE OF THE PENITENTIARY, AND ALSO THE MODE OF EMPLOYING THE OFFICERS AND OTHER EMPLOYEES, AND FIXING THE PAY OF THE SAME, AND FOR OTHER PURPOSES." *Sub. for H. B. 78 and C. B. 67; Approved February 21, 1891.*

CONTENTS.

SECTION 1. The Governor shall appoint a board of seven Penitentiary Commissioners.

SEC. 2. Meetings. Salaries. Employes shall be appointed by the Superintendent. Approved by the board.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 2 of Chapter 76 of the laws of New Mexico of 1889, entitled as above, be and the same is hereby amended so as to read as follows:

"Section 2. The general government and management of the Territorial Penitentiary shall be vested in seven commissioners, who shall be called the "Board of Penitentiary Commissioners,"

no more than five of whom shall belong to any one political party, and no more than two of whom shall be residents of the same county. Said commissioners shall be appointed by the Governor, by and with the consent of the Legislative Council, for a term of two years and until their successors shall be appointed and qualified. They shall all be appointed during the 29th session of the Legislative Assembly, and their terms of office shall commence on the first Monday of March, 1891. Hereafter, during each session of the Legislative Assembly, the Governor, by and with the consent of the Legislative Council, shall appoint the successors of the commissioners whose terms of office will expire in the then ensuing month of March, and each of the commissioners thus appointed shall hold office for two years and until his successor is appointed and qualified. A majority of said board shall constitute a quorum."

SEC. 2. Said board shall meet on the first Monday of March, 1891, and every two years thereafter on said Monday, and at each of said meetings shall elect a president and secretary of said board.

The Territorial Treasurer shall be ex officio treasurer of said board. The secretary shall receive a salary to be fixed by said board, not exceeding three hundred dollars per annum, to be paid out of the salary fund. Said board shall hold six regular meetings in each year, on the first Mondays in March, May, July, September, November and January, and shall each receive a salary of one hundred dollars per year and their actual and necessary traveling expenses incurred in attending the meetings of the board. Said meetings shall be held in the office of the Penitentiary, and said salary and mileage shall be paid quarterly on the warrant of the Auditor out of the salary fund. No member of the board shall hold any other Territorial office. All officers and employes under the superintendent shall be employed by the superintendent by and with the approval of the Board of Penitentiary Commissioners.

SEC. 3. This act shall be in force and effect from and after its passage.

CHAPTER XLIX.

AN ACT TO AMEND SECTIONS 2309 AND 2310 OF THE COMPILED LAWS OF NEW MEXICO OF 1884. *H. B. 107; Approved February 21, 1891.*

CONTENTS.

SECTION 1. Right of action for injury to person notwithstanding death may have resulted.

SEC. 2. Disposition of money arising from an action for damages.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Section 2309 of the Compiled Laws of New Mexico of 1884 be and the same is so amended as to read as follows, viz:

"Section 2309. Whenever the death of a person shall be caused by the wrongful act, neglect or default of another, although such death shall have been caused under such circumstances as amount in law to a felony, and the act or neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, then, and in every such case, the person who or the corporation which would have been liable, if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured."

SEC. 2. Section 2310 of the Compiled Laws of New Mexico of 1884 be and the same is hereby amended so as to read as follows, viz:

"Section 2310. Every such action as mentioned in the next preceding section shall be brought by and in the name or names of the personal representative or representatives of such deceased person, and the jury in every such action may give such damages, compensatory and exemplary, as they shall deem fair and just, taking into consideration the pecuniary injury or injuries resulting from such death to the surviving party or parties entitled to the judgment, or any interest therein, recovered in such action, and also having regard to the mitigating or aggravating circumstances attending such wrongful act, neglect or default. The proceeds of any judgment obtained in any such action shall not be liable for any debt of the deceased: *Provided*, He or she shall have left a husband, wife, child, father, mother, brother,

sister, or child or children of the deceased child, but shall be distributed as follows:

"First. If there be a surviving husband or wife, and no child, then to such husband or wife; if there be a surviving husband or wife and a child or children or grandchildren, then equally to each, the grandchild or grandchildren taking by right of representation; if there be no husband or wife, but a child or children, or grandchild or grandchildren, then to such child or children and grandchild or grandchildren by right of representation; if there be no child or grandchild, then to a surviving brother or sister, or brothers or sisters, if there be any; if there be none of the kindred hereinbefore named then the proceeds of such judgment shall be disposed of in the manner authorized by law for the disposition of the personal property of deceased persons."

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER L.

AN ACT REGULATING THE PAY OF THE CAPITOL SWEEPERS AND THE CARE OF THE INCLOSURE OF SAID CAPITOL BUILDING. *H. B. 181; Approved February 24, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That the sum of two dollars per diem is hereby fixed for the pay of each of the sweepers and the care of the inclosure and for the night watchman at the capitol for services rendered during the session of the 29th Legislative Assembly of New Mexico.

SEC. 2. That each of said workmen shall present his account to the Board of Capitol Commissioners for its approval.

SEC. 3. When said account shall have been approved the said Board of Capitol Commissioners shall draw its voucher, which shall be presented to the Auditor of Public Accounts, who shall draw a warrant upon the Territorial treasury, and the Treasurer shall pay the amount certified to in said warrant

out of the surplus money in the treasury after the contingent expenses.

SEC. 4. That this act shall be in force from and after its passage and approval.

Translation.

CHAPTER LI.

AN ACT TO AMEND SECTION 4 OF AN ACT OF THE LEGISLATIVE ASSEMBLY OF THE TERRITORY OF NEW MEXICO, APPROVED FEBRUARY 14, 1889, ENTITLED "AN ACT TO PROVIDE FOR THE PROTECTION AND PROPAGATION OF FISH." *H. B. 43; Approved February 24, 1891.*

CONTENTS.

SECTION 1. Not lawful to catch or possess food fish from November to April, inclusive.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 4 of an act of the Legislative Assembly of the Territory of New Mexico, approved February 14, 1889, entitled "An Act to provide for the protection and propagation of fish," be and the same hereby is amended so as to read as follows:

"Section 4. That it shall not be lawful to kill, take or have in possession any trout or other food fish taken or killed in any of the public waters of this Territory during the months of November, December, January, February, March and April, or either of said months, in any year, and the possession of trout or other food fish obtained as aforesaid during the months above mentioned shall be prima facie evidence of the violation of the provisions of this section.

SEC. 2. This act shall be in full force and effect from and after its passage.

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CHAPTER LII.

AN ACT LEGALIZING TRANSFERS OF SCHOOL DISTRICT PROPERTY
MADE BY SCHOOL BOARDS IN THE TERRITORY OF NEW MEXICO.
C. B. 148; Approved February 24, 1891.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico:*

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this is 18952, 27 SECTION 1. That all transfers of school district property heretofore made in any school district in this Territory are hereby declared valid and legal, and hereafter school district property shall not be transferred by school boards, except upon the petition of a majority of the qualified electors of any school district desiring such transfer.

SEC. 2. This act shall be in force from and after its passage.

CHAPTER LIII.

AN ACT TO AMEND CHAPTER 2, OF TITLE 33, OF THE COMPILED
LAWS OF THE TERRITORY OF NEW MEXICO, RELATING TO JUDG-
MENTS. *C. B. 63; Approved February 24, 1891.*

CONTENTS.

SECTION 2. Actions founded upon any judgment. Limitation of right of action.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico:*

SECTION 1. That so much of the laws of the Territory of New Mexico as is compiled as section 1861 of the Compiled Laws of the Territory of New Mexico of 1884 be and the same is hereby repealed, and the following be and is hereby substituted therefor:

#1861 CR 84 SEC. 2. "(1861). Actions founded upon any judgment of any court of the Territory of New Mexico may be brought within seven years from and after the rendition of such judgment, and not afterward, and actions founded upon any judgment of any

court of record of any other Territory or State of the United States, or of the federal courts, may be brought within seven years from and after the rendition of such judgment, and not afterward: *Provided*, That actions may be brought upon any existing judgment which, but for this proviso, would be barred within one year from and after the passage of this act, and not afterward; and all actions upon such judgments not commenced within the time limited by this act shall be forever barred."

SEC. 3. This act shall take effect and be in force from and after its passage.

CHAPTER LIV.

AN ACT PROVIDING THAT THE INHABITANTS OF THE DIFFERENT PRECINCTS OF THE SEVERAL COUNTIES OF THE TERRITORY OF NEW MEXICO WHERE THERE ARE WATER CORPORATIONS BY MEANS OF TUBES SHALL HAVE THE RIGHT TO MAKE RESERVOIRS IN ORDER TO USE SAID WATER, AND FOR OTHER PURPOSES.
H. B. 125; Approved February 24, 1891.

CONTENTS.

- SECTION 1. The people may build reservoirs to deposit water that shall run through tubes.
SEC. 2. Upon petition to county commissioners.
SEC. 3. The commissioners shall grant said petition and furnish the necessary tools.
SEC. 4. Petitioners shall do the work.
SEC. 5-6. Contract for water.
SEC. 7. Pay for water.

SECTION 1. That the inhabitants of the different precincts in this Territory be hereby authorized to build reservoirs at such places where needed to deposit the water that shall run through tubes, so that the masses of the people may use the same for the use of families. 2876, 27
13. 38

SEC. 2. That whenever said inhabitants shall have necessity to build such reservoirs or ponds of water they shall make a petition to the county commissioners of their county, with no less than one hundred signatures, which shall be constituted into a corporation to build such reservoir or pond.

SEC. 3. That said commissioners, in view of said petition, shall allow said reservoir to be made, and shall furnish, at the

expense of the county, the necessary tools to do the work, which shall consist of rock and mortar.

SEC. 4. That every petitioner shall have to work on said reservoirs or ponds until the work is completed.

SEC. 5. When said reservoirs or ponds shall have been completed, the county commissioners shall enter into an annual contract with the owners of said water tubes for the permanent having of the water in said reservoirs.

SEC. 6. The said water company shall contract with the said commissioners, which contract shall be for the term of two years from the date of the contract, thus continuing from period to period until the present law is repealed.

SEC. 7. By virtue of said contract the commissioners shall issue warrants for the payment of the sum necessary to pay equitably upon the county treasurer where said contract shall be made; and the treasurer shall pay from the funds of said county not appropriated for other purposes.

SEC. 8. All acts in conflict with this act are hereby repealed.

SEC. 9. This act shall be in force from and after its passage and approval.

Translation.

CHAPTER LV.

AN ACT TO RESTORE TO THE COUNTY OF BERNALILLO PORTIONS THEREOF TAKEN FROM IT BY CHAPTER 127 OF THE ACTS OF THE 28TH LEGISLATIVE ASSEMBLY, AND TO THAT END TO CHANGE THE LINES OF SANTA FE COUNTY, AND FOR OTHER PURPOSES. *C. B. 7; Approved February 25, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Hereafter the dividing line between the counties of Santa Fe and Bernalillo shall be as follows: Commencing at the southeast corner of township 9 north, of range 11 east, on the second correction line north, according to the United States public land surveys in the Territory of New Mexico; thence running west along said correction line between townships 8 and 9 north, to the southwest corner of township 9 north, range 7 east,

and from thence north along the dividing line between ranges 6 and 7 east to a point due west of the northwest corner of the tract of land known as the Mesita de Juana Lopez grant, as established by the surveys made by the government of the United States; thence due east to said northwest corner; thence due north one mile to a point; thence due west to the said dividing line between ranges 6 and 7 east; thence north along said dividing line to the northwest corner of the county of Santa Fe as at present established; it being understood that all of the country adjacent to the above described lines, from the point of commencement on the south side and the west side thereof as far north as the present northern boundary of the county of Bernalillo, shall hereafter be a part of the county of Bernalillo.

SEC. 2. All taxes that are at the date of the passage of this act due or delinquent in the portion of Territory by this act restored to Bernalillo county, shall be payable to said county, and the collector of Santa Fe county shall, on the demand of the commissioners of Bernalillo county, furnish them a list thereof, the reasonable cost thereof to be paid by Bernalillo county.

SEC. 3. All acts or parts of acts in conflict herewith are hereby repealed, and this act shall be in force and take effect from and after its passage.

CHAPTER LVI.

AN ACT TO PROVIDE FOR THE PRESERVATION OF TESTIMONY ADDUCED IN ALL PRELIMINARY EXAMINATIONS BEFORE JUSTICES OF THE PEACE IN THIS TERRITORY, OF THE CRIMES OF MURDER OR OTHER FELONIES. *C. B. 97; Approved February 25, 1891.*

CONTENTS.

SECTION 1. Stenographer to take testimony adduced in preliminary examination before justice of the peace.

SEC. 2. Compensation.

SEC. 3. Justice of the peace shall certify and county commissioners shall audit and draw warrants.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That in all preliminary examinations before just-

ices of the peace in this Territory of the crimes of murder or other felonies, whenever in the discretion and judgment of the district attorney of said county it is deemed advisable for the perpetuation and preservation of testimony to be submitted to the grand jury of said county of said charge, the said district attorney is hereby authorized and empowered to employ an efficient and competent stenographer, whose duties shall be to take down the evidence and reduce the same to writing, given at such preliminary examination, and after the same shall have been reduced to writing shall under oath certify that such testimony was the testimony taken before such justice of the peace on the preliminary examination of such offense, and shall deliver the same, with his stenographic notes, to said district attorney, and the said evidence so written out shall by said district attorney be presented to the grand jury of the district court of said county, as soon as said grand jury shall have been convened for the transaction of business, for their examination and inspection, and whenever in the judgment of said grand jury, upon the examination of said evidence so presented by said district attorney to said grand jury, a murder or other felonious crime has been committed, indictable under the laws of the Territory, and such evidence so taken down may be used before the grand jury without calling the witnesses who testified to the same with the same force or effect as if the said witnesses had testified before the grand jury: *Provided however*, That such grand jury shall in no manner be restricted by the provisions of this act from summoning before them any or all witnesses that they may deem necessary in the examination of any such charge, other than those whose testimony has so been taken and submitted to them: *Provided further*, That in all preliminary examinations before any justice of the peace, or other examining magistrate in any criminal case all the evidence taken before the justice or magistrate shall be reduced to writing and certified by the justice or magistrate to be true and correct, and shall be forwarded by him to the clerk of the district court, which evidence so certified shall be used before the grand jury with the same effect and subject to the same conditions and restrictions as the evidence above provided for in cases to be taken under the direction of the district attorney by a stenographer.

SEC. 2. The said stenographer, for said services before any such justice of the peace in the examination of the crimes of

murder and other felonies, shall receive as compensation the same allowance as is provided for like services in the district court.

SEC. 3. Upon any stenographer performing said services as by this act provided, it shall be the duty of the justice of the peace before whom said examination may have been held to issue to such stenographer a certificate under his seal, setting forth the fact of such examination being held before said justice and the attendance of said stenographer in taking down such testimony and setting forth the number of days of service of such stenographer, which certificate shall be indorsed and certified to by said district attorney as to its correctness, and said certificate shall be presented to the board of county commissioners in such county in which such examination may have been held, and the amount thereof shall be audited and allowed by the board of county commissioners of such county, to be paid out of the county funds of such county upon the order of said board of county commissioners, as other claims against counties are allowed by the board of county commissioners and paid.

SEC. 4. This act shall be in force and effect from and after its passage.

CHAPTER LVII.

AN ACT TO REPEAL CHAPTER 100 OF THE SESSION LAWS OF THE 28TH LEGISLATIVE ASSEMBLY OF THE TERRITORY OF NEW MEXICO, AND TO PROVIDE FOR THE FEEDING OF COUNTY PRISONERS IN SAID TERRITORY. *C. B. 35; Approved February 26, 1891.*

See R 9379 130hc 15

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Hereafter the sheriffs of each county in the Territory of New Mexico shall supply with food the prisoners in their respective counties, and at all times all food so furnished shall be of a good and wholesome quality and sufficient in quantity for the proper maintenance of life.

SEC. 2. For feeding such prisoners the sheriff shall receive

the sum of seventy-five cents per day for each prisoner, for each and every day so fed.

SEC. 3 That Chapter 100 of the Session Laws of the 28th Legislative Assembly of the Territory of New Mexico, being an act entitled "An Act to provide for feeding county prisoners in the Territory of New Mexico," be and the same is hereby repealed.

SEC. 4 All laws and parts of laws in conflict herewith are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

CHAPTER LVIII.

AN ACT IN REFERENCE TO THE COLLECTION OF DELINQUENT TAXES IN THE COUNTIES OF LINCOLN, CHAVES AND EDDY, IN THE TERRITORY OF NEW MEXICO. *C. B. 111; Approved February 26, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The tax collectors in the counties of Lincoln, Chaves and Eddy are hereby authorized and empowered to collect all delinquent taxes upon property situated in said counties, and when so collected said taxes to be paid to the county treasurers thereof, to be appropriated and used by the respective counties as follows, to-wit: One-third in the payment of current expenses of the county; one-third to be used in repairing roads, highways and building bridges; one-third to be paid into the school fund.

SEC. 2. All acts and parts of acts in conflict herewith are hereby repealed, and this act to be in force and effect on and after its passage.

CHAPTER LIX.

AN ACT RELATIVE TO WILLS AND ADMINISTRATORS. *H. B. 191;*
Approved February 26, 1891.

CONTENTS.

SECTION 1. A will may be revoked by the testator.

SEC. 2. Administrators entitled to a per centage on money or property coming into their hands.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Any will may be revoked by the testator by an instrument in writing, executed and attested in the same manner as is required by law for the execution and attestation of a will, by which instrument the maker distinctly refers to such will and declares that he revokes it; or such will may be revoked by the making of a subsequent valid will disposing of the same property covered by the first will, although no reference be made in the later will to the existence of the earlier one.

SEC. 2. Administrators and executors shall be entitled to a commission upon the amount of money, or property at the appraised value, which comes into their hands as such, of ten per cent on the first three thousand dollars, and of five per cent on all amounts above the first three thousand dollars.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect immediately.

CHAPTER LX.

AN ACT TO PREVENT THE APPOINTMENT OF SPECIAL DEPUTY SHERIFFS, SPECIAL CONSTABLES, MARSHALS, POLICEMEN OR OTHER PEACE OFFICERS WHO ARE NOT CITIZENS OF THE TERRITORY OF NEW MEXICO. *H. B. 81; Approved February 26, 1891.*

CONTENTS.

SECTION 1. Special deputies and other peace officers must be citizens, except U. S. marshals.

SEC. 2. Persons exercising the functions of peace officers without authority, guilty of misdemeanor. Exception.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Hereafter no sheriff of a county, mayor of a city, or other person authorized by law to appoint special deputy sheriffs, special constables, marshals, policemen or other peace officers in the Territory of New Mexico, to preserve the public peace and to prevent and quell public disturbances, shall appoint as such special deputy sheriff, special constable, marshal, policeman or other peace officer, any person who shall not be a citizen of the Territory of New Mexico, and no person shall assume or exercise the functions, powers, duties and privileges incident and belonging to the office of special deputy sheriff, special constable, marshal or policeman or other peace officer without first having received his appointment in writing from the lawfully constituted authorities of the Territory of New Mexico: *Provided*, That nothing in this section shall apply to lawfully appointed United States marshals, or to the deputies of any such marshals.

SEC. 2. Any person or persons who shall in the Territory of New Mexico, without due authority, exercise or attempt to exercise the functions of, or hold himself or themselves out to any one as a deputy sheriff, marshal, policeman, constable or police or other peace officer, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be liable, at the discretion of the court, to imprisonment at hard labor not to exceed one year, or a fine not to exceed five hundred dollars, or both such fine and imprisonment, if the court shall deem it proper in the furtherance of justice: *Provided*, This act shall not apply in times of riot or unusual disturbance, and when so declared by the public proclamation of the Governor of the Territory of New Mexico.

SEC. 3. All acts and parts of acts in conflict with this act are hereby declared to be and the same are hereby repealed. This act shall be in force and take effect from and after its passage.

CHAPTER LXI.

AN ACT TO PROMOTE AND PROTECT THE HORTICULTURAL INTERESTS OF THE TERRITORY OF NEW MEXICO. *H. B. 165; Approved February 26, 1891.*

CONTENTS.

- SECTION 1. Fruit trees being infested with parasites and upon petition to county board, horticultural commission shall be appointed. Term of office.
SEC. 2. Powers of the commission. Failure or neglect to abate the parasites, the orchard declared a nuisance. Penalty
SEC. 3. Dividing the county into districts. Quarantine guardians.
SEC. 4. Compensation.
SEC. 5. Power to remove inspectors.
SEC. 6. Board of horticultural commissioners failing in duty subject to removal.
SEC. 7. Record of doings.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Whenever a petition is presented to the board of county commissioners of any county, and signed by fifteen or more persons who are free holders and possessors of an orchard, or both, stating that certain, or all orchards or nurseries, or trees or vineyards of any variety, are infested with scale insects, codlin moth, or any other insect or pest that are known to be destructive to trees or vines, praying that a commission be appointed by them, whose duty it shall be to supervise their destruction, as herein provided, the board of county commissioners shall, within twenty days thereafter, select three commissioners for the county, to be known as a county board of horticultural commissioners. The board of county commissioners may fill any vacancy that may occur in said commission by death, resignation, or otherwise, and appoint one commissioner each year, one month, or thereabouts, previous to the expiration of the term of office of any member of said commission. The said commissioners shall serve for a period of three years from the date of their appointment, except the commissioners first appointed, one of whom shall serve for one year, and one of whom shall serve for two years, and one of whom shall serve for three years from the date of their appointment. The commissioners first appointed shall themselves decide, by lot or otherwise, who shall serve for one year, who shall serve for two years, and who

shall serve for three years, and shall notify the board of county commissioners of the result of their choice.

SEC. 2. It shall be the duty of the board of horticultural commissioners of each county, whenever it shall deem it necessary, to cause an inspection to be made of any orchard or nursery or vineyard or trees, or any fruit packing house, store-room, sales-room, or any other place in their jurisdiction, and if found infested with scale-bug, codlin moth, or other insect pests, injurious to fruit, trees or vines, they shall notify the owner or owners or person or persons in charge or possession of said trees or vines or places aforesaid, that the same are infected with said insects, or any of them, or their eggs or larvae, and they shall require such person or persons to disinfect or destroy the same within a certain time to be specified. If within such specified time such disinfection or destruction has not been accomplished, the said person or persons shall be required to make application of such treatment for the purpose of destroying them as said commissioners may prescribe. Said notices may be served upon the person or persons owning or having charge or possession of such infested trees or vines or places or articles, as aforesaid, by any commissioner, or by any person deputed by said commissioners for that purpose, or they may be served in the same manner as a summons in a civil action. If the owner or owners or the person or persons in charge or possession of any orchard or nursery or vineyard or trees or places or articles infested with said insects, or any of them, or their larvae or eggs, after having been notified as above to destroy the same, or make application of treatment as directed, shall fail, neglect or refuse so to do, he or they shall be deemed guilty of maintaining a public nuisance, and any such orchards, nurseries, vineyards, trees or places or articles thus infested, shall be adjudged and the same is hereby declared a public nuisance, and may be proceeded against as such, and the county board of horticultural commissioners are hereby authorized and empowered to abate such nuisance, and the expenses thus incurred may be a lien upon the real property of the defendant.

SEC. 3. Said county board of horticultural commissioners shall have power to divide the county into districts, and to appoint a local inspector for each of said districts. Said board and such local inspectors as they may appoint shall be ex-officio quarantine guardians; and as such shall have power and full

authority to enter into any orchard, nursery, vineyard, or place or places where trees or plants are kept and offered for sale, or otherwise, or any house, or store-room, sales-room, depot, or any other such place in their jurisdiction, to inspect the same or any part thereof.

SEC. 4. Each member of the county board of horticultural commissioners and each local inspector shall be paid for each day actually engaged in the performance of his duties under this act, payable out of the county treasury of his county, such compensation as shall be determined by the resolution of the board of county commissioners, before entering into the discharge of his or their duties.

SEC. 5. Said county board of horticultural commissioners shall have power to remove any local inspector who shall fail to perform the duties of his office.

SEC. 6. If any member of the county board of horticultural commissioners shall fail to perform the duties of his office, as required by this act, he shall be removed from office by the county commissioners and the vacancy thus formed shall be filled by appointment by the county commissioners.

SEC. 7. It shall be the duty of the county board of horticultural commissioners to keep a record of their official doings and to make a monthly report to the board of county commissioners, and the board of county commissioners may withhold warrant for salary of said members and inspectors thereof until such time as said report is made.

SEC. 8. This act shall take effect and be in force from and after its passage.

CHAPTER LXII.

AN ACT RELATIVE TO THE PREVENTION OF SCAB AND OTHER DISEASES IN WOOLLEN STOCK. *Sub. II. B. 58; Approved February 26, 1891.*

CONTENTS.

SECTION. 1. Woolen stock subject to the requirements of this act.

SEC. 2. Duty of any flock master to dip or bathe animals infected with scab or other maladies.

SEC. 3. Failure subject to fine.

SEC. 4. Jurisdiction of justices of the peace in such cases.

SEC. 5. Of damages arising from failure to comply with this law.

SEC. 6. Penalties collected shall be paid into the county treasury.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That henceforth any and all persons, company or corporation owning or holding stock on shares, such as sheep, goats, etc., that may pasture any sheep or goats within the limits of this Territory, is hereby required to comply with the requirements of the following sections in this act.

SEC. 2. That it shall be the duty of any person, persons, company or corporation who shall either own or have any sheep or goats on shares to dip all of said stock within the first day of June and the last day of November, and use in said process all the ingredients required to effect the cure of scab or any such malady; the bathing process or dipping shall be executed in the usual manner heretofore in use by all owners of sheep.

SEC. 3. Any person, persons, company or corporation, party or parties having sheep on shares, who shall fail to comply with the requirements and provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than fifty dollars and not more than three hundred dollars, and the costs of the prosecution of all matters and things required in the said case.

SEC. 4. That upon the affidavit of two competent persons the justice of the peace, or any other court of competent jurisdiction, shall issue a writ or summons against any person or persons, company or corporation who has been reported to said court as having infringed against the requirements and provisions of this act, and said person, persons, company or corporation shall be tried as now provided in such cases.

SEC. 5. Any person, persons, company or corporation who are owners or having interest in woolen stock, who shall receive any damage through the neglect of any person, persons, company or corporation of dipping their sheep, as provided in section 2 of this act, said person, persons, company or corporation so being damaged by the malady of scab in their flocks shall have a right of action, and shall be able to recover from the parties owning said stock that have not been dipped as provided in section 2 of this act: *Provided, however,* That the party so offended shall give thirty days notice to any per-

son, persons, company or corporation that have not complied with the requirements and provisions of section 2 of this act to comply with the same, as provided, and if after such notice parties so notified fail to comply, then and in that event the parties so offended shall have a right of action against the parties so failing.

SEC. 6. That any funds collected from fines or penalties as provided in this act shall be paid into the general treasury of the county where such offense is committed.

SEC. 7. That all acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in full force and effect from and after its passage.

CHAPTER LXIII.

AN ACT TO AMEND AN ACT ENTITLED, "AN ACT TO PROHIBIT THE UNLAWFUL CARRYING AND USE OF DEADLY WEAPONS." SESSION ACTS 1887, CHAPTER XXX. *H. B. 55; Approved February 26, 1891.* *R-87 p9 53-*

CONTENTS.

SECTION 1. Penalty for insult or assault with deadly weapons.

SEC. 2. Repeals section 7, acts of 1887.

SEC. 3. When public officers may carry deadly weapons.

SEC. 4. Limits the number of deputies that may be appointed by sheriffs. File appointment.

SEC. 5. No person eligible to office of sheriff for more than two consecutive terms.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 5 (five) of said act be and the same is hereby amended to read as follows:

"Section 5. Any person being armed with a deadly weapon who shall by words or in any other manner insult or assault another without sufficient provocation, upon conviction thereof shall be punished by a fine of not less than one hundred dollars or more than three hundred dollars, or by imprisonment at hard labor in the county jail or Territorial Penitentiary, for not less than three months nor more than one year, or by both such fine and imprisonment, in the discretion of the court or jury trying the same."

SEC. 2. That section 7 (seven) of said act be and the same is hereby repealed in all its parts and provisions.

SEC. 3. That section 10 (ten) of said act be and the same is hereby amended to read as follows, viz:

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"Section 10. Sheriffs and constables of the various counties and marshals and police of the cities and towns in this Territory and their lawfully appointed deputies, may carry weapons when in actual charge or pursuit of or search of a person charged with any offense against the laws of this Territory, in the legal discharge of the duties of their respective offices, or when such carrying may be necessary for the public safety, but not otherwise, and it shall be for the court or jury to decide whether such carrying of weapons was necessary or not; and for an improper carrying or using of deadly weapons by an officer he shall be punished as other persons are punished for the violation of any of the provisions of the preceding sections of this act."

SEC. 4. Hereafter in all counties not having more than fifteen precincts the sheriff shall only be allowed to appoint and keep five deputies, and in counties having more than fifteen precincts the sheriff shall be authorized to appoint one additional deputy for each additional four precincts over and above fifteen, said additional deputy to be only appointed on the consent of the district judge given therefor; but all sheriffs shall at all times be considered as in the discharge of their duties and be allowed to carry on their persons arms not concealed. On the appointment of any deputy sheriff it shall be the duty of the sheriff to file a notice of such appointment in the office of the clerk of the probate court of his county; also, in the office of the clerk of the district court, and each of such deputies shall also file his oath of office with the clerk of the probate court. Any sheriff is hereby authorized at any time, without consent of the district court, to appoint any competent, respectable and orderly person a special deputy to serve any particular process, writ or order, and it shall not be necessary to file or give any notice of such special appointment, and the person so appointed shall only be authorized to serve the process, writ or order which he shall be specially appointed to serve.

SEC. 5. Hereafter no sheriff shall be qualified or authorized to be elected or hold the office as his own successor more than once, and this disqualification shall apply to all sheriffs now in office, and where they may have succeeded themselves in office

heretofore they shall not be authorized to do so hereafter until after the expiration of one full term thereafter.

SEC. 6. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in full force on and after the 1st day of April, 1891.

CHAPTER LXIV.

AN ACT IN RELATION TO SCHOOL BOOKS. *H. B. 190; Approved February 26, 1891.*

CONTENTS.

SECTION 1. The Board of Education of the Territory shall designate school books, which shall be used in all the schools. Power to contract with publisher.

SEC. 2. Shall be sold to several counties at cost by Superintendent of Public Instruction. Reports.

SEC. 3. Once adopted, school books shall not be changed for four years. Contract with publishers September 1, 1891.

SEC. 4. The Board of Education vested with exclusive powers respecting school books. Penalty for violation of rules.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The Board of Education of the Territory of New Mexico shall have and is hereby vested with full power to adopt a system of school books for the use of the public schools of this Territory, and only the school books so adopted by the said board shall be used in any and all of the public schools in this Territory. The Board of Education shall have power to contract with the publisher or publishers of text books adopted for use in the public schools in New Mexico in the name of the Territory and through the Superintendent of Public Instruction for the purchase and delivery of said books under such regulations as the board may adopt.

SEC. 2. The books purchased in the name of the Territory shall be sold to the several counties for cash only, at cost and freight added, and additional five percentum of amount of cost and freight, to cover necessary expenses; on the 10th of each month accounts of books purchased and sold shall be settled by the Superintendent of Public Instruction; the text books shall be supplied by the publisher or publishers in quantities on the

order of the Superintendent of Public Education of the Territory, and on the 1st day of March and of September of each year a full settlement shall be had between the Territory and the contractors and a full report thereof shall be submitted to the Board of Education of all matters connected with the purchase of text books by the Superintendent of Education.

SEC. 3. Text books once adopted shall not be changed for four years, and the first contract for same shall be entered into between the publishers and the Territory on the 1st day of September, 1891, or as soon thereafter as possible.

SEC. 4. The Board of Education of the Territory of New Mexico is hereby vested with exclusive power in the matter of prescribing the text books necessary and to be used in the public schools of this Territory, and any school teacher, school director or county school superintendent violating the regulations and rules of the Board of Education shall be deemed guilty of a misdemeanor and shall be fined for each and every offense, and upon conviction in a court of competent jurisdiction, in a sum not less than ten dollars nor more than one hundred dollars for each and every offense.

SEC. 5. This act shall take effect and be in force from and after its passage, and all acts and parts of acts in conflict therewith are hereby repealed.

CHAPTER LXV.

AN ACT TO PREVENT THE UNLAWFUL DESTRUCTION AND INJURY TO PRIVATE PROPERTY AND UNLAWFUL FENCING OF LANDS.

H. B. 177; Approved February 26, 1891.

CONTENTS.

SECTION 1. Unlawful destruction of fences, crops or buildings declared a felony.

SEC. 2. Penalty.

SEC. 3. Same penalties apply to persons unlawfully fencing lands to the injury of others.
Exception.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The unlawful cutting, destruction or injury to

any fence inclosing in whole or in part any real estate or lands, to which lands any person or persons, company or corporation, has a good and indefeasable title, either by grant from the government of Spain or Mexico, or under the laws of the United States or the Territory of New Mexico; and the unlawful and malicious destruction or injury of any hay, stock, grain, crop, orchard or building or [on] any such land, is hereby declared a felony.

SEC. 2. Any person found guilty of the unlawful cutting, destroying or injuring any fence, or the unlawful and malicious burning, destroying or injuring any hay, stock, grain, crop or building on any land held and owned by any person or persons, company or corporations, as provided in section 1 of this act, shall upon conviction be confined in the Territorial Penitentiary for a term not less than one year nor more than five years, in the discretion of the court or jury trying the cause.

SEC. 3. That the same penalties named in sections 1, 2 of this act shall apply to any person or persons or member of any corporation who shall fence, to the injury of any person or persons, any lands which they do not own or have no legal title thereto by lease or otherwise: *Provided, however,* That the provisions of this section shall not be construed to in any manner interfere with or apply to any person or persons who in good faith enters upon any land for the purpose of establishing his residence and acquires title to such land under the limitation laws in force in said Territory: *And, provided further,* That such land so fenced does not exceed in area the number of one hundred and sixty acres.

SEC. 4. This act shall take effect and be in force from and after its passage.

CHAPTER LXVI.

AN ACT RELATING TO PRACTICE IN THE DISTRICT COURTS. *C. B. 95; Approved February 26, 1891.*

CONTENTS.

SECTION 1. First Monday in each month designated as a return day for process, appearance, decree *pro confesso*.

SEC. 2. Process shall be served as now provided by law. Residence relative to return day.

- SEC. 3. Process may at option of plaintiff be made returnable first day of term.
 SEC. 4. Pleadings. Judgment on failure to plead.
 SEC. 5. Appeals. Bonds in stay of execution. Certain sections of Compiled Laws repealed.
 SEC. 6. Hearings, other than trial by jury, may be heard at any time upon notice.
 SEC. 7. Proof of service of papers.
 SEC. 8. Record books to be kept by the clerk.
 SEC. 9. Special permission (with exception) not necessary to the service or filing of papers.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The first Monday in each month is designated as a return day for process issued from the district courts in civil actions to bring defendants into court, and each defendant must enter his appearance in the clerk's office on or before the day upon which such process is made returnable, if service has been made on him as hereinafter provided, or judgment by default or decree *pro confesso* may be entered against him.

SEC. 2. Such process shall be served in the manner now provided by law, and shall be returnable on the first return day occurring not less than twenty days after service, if defendant is sued in any county within the district in which he lives; and on the first return day occurring not less than thirty days after service, if defendant is sued in any county outside of the district in which he lives.

SEC. 3. Process may also, at the option of [the] plaintiff, be made returnable to the first day of a term of the district court, in which case it shall be served in the manner and at the times heretofore provided by law.

SEC. 4. Within ten days after defendant's appearance is entered plaintiff or his attorney or solicitor shall deliver to defendant or his attorney or solicitor a copy of the declaration or bill of complaint; and each successive pleading thereafter shall be filed with the clerk, and a copy served on the opposite party or his attorney or solicitor within ten days of the filing and service of the next preceding pleading. Any failure to file and serve a pleading within the required time shall entitle the opposite party, if plaintiff, to a judgment *nil dicit* or decree *pro confesso*, and, if defendant, to a judgment or decree of dismissal: *Provided*, Such judgment or decree is obtained before the pleading is filed and served. Any judgment or decree for lack of appearance or failure in pleading may be rendered by the judge of the district at any place where he may be in his district, and the district courts are declared to be at all times in session for the purposes of this act. Final judgments or decrees

may be in like manner entered by the court out of regular term time, whenever a trial by jury is not necessary.

SEC. 5. Appeals in equity cases and writs of error in common law cases may be taken at any time within one year from the date of the rendition of final decrees or judgments, and no affidavit shall be required as a condition precedent to the granting of such appeals or writs of error. Appeals shall be allowed upon application to the district court in which the decree appealed from was rendered, and unless such application and allowance are made in open court and at the same term at which the decree was rendered, the clerk shall issue a citation to the opposite party to appear in the Supreme Court to answer such appeal. There shall be no stay of execution in any equity case, unless the appellant, or some person for him, shall, within ninety days after the decree appealed from becomes final, give bond in a sum to be fixed by the district court or the judge thereof, with sufficient sureties, to be approved by the court or judge, to the adverse party, conditioned that the appellant shall prosecute his appeal with due diligence in the Supreme Court, and that, if the decree appealed from be affirmed, or the appeal dismissed, he will perform the decree of the district court and pay all damages and costs adjudged against him in the Supreme Court on such appeal, which bond shall be filed with the clerk of the district court and shall become a part of the record; or unless the appellant is executor, or administrator, county or other municipal incorporation, and the decree is against him as such, in which case the taking of appeal shall operate to stay the execution of the decree. Upon writs of error supersedeas or stay of execution may be obtained, as provided in section 2194 of the Compiled Laws of 1884, and sections 2184, 2185, 2186, 2187, and 2193 of said Compiled Laws are hereby repealed, and section 2194 is amended by striking out the first sentence thereof, which is as follows: "Appeals shall be taken and allowed as now provided by law."

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SEC. 6. Any hearing of any kind, whether interlocutory or final, unless trial by jury is necessary, may be had in any case out of regular term time, upon five days' notice in writing to the opposite party or his attorney or solicitor. Such hearing may be had during a term of court, at any time within the discretion of the court.

SEC. 7. All service of notices or other papers, if made by an

attorney or solicitor, sheriff or marshal, shall be proved by his certificate, and if made by any other person, shall be proved by affidavit. Motions shall be served in the same manner as pleadings.

SEC. 8. The clerks of the district courts shall keep, for each county, a judgment docket, a civil docket, a criminal docket, and a record or journal of the proceedings of the court. In counties where the amount of business makes it desirable or convenient to do so, they may keep two records or journals, one for criminal, and the other for civil business. No other books or records shall be required. The civil and criminal dockets shall show in convenient form the names of the parties in each case, the names of their attorneys or solicitors, the nature of the case, the filing of each paper, the appearance of parties, a brief statement of every return, motion, rule, order, judgment, or other proceeding, with references to pages of the journal or record where each entry made can be found, the costs taxed for each item, all costs received, with columns for clerk's and sheriff's costs and for witness fees, so that said dockets will show in brief an outline of the whole case from its beginning, and serve as an index to the journal, and as a fee book. Such dockets are records of the court. The journal or record of the court shall show all proceedings of the court, but it shall not be necessary nor allowable to enter therein any record of proceedings which are the mere acts of the parties to a case, such as the filing of papers.

SEC. 9. All filing and serving of papers shall be by the parties, without the necessity of calling on the court for any action relative thereto, except in those instances where leave to file is requisite.

SEC. 10. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect immediately.

CHAPTER LXVII.

AN ACT RELATIVE TO JUDGMENT LIENS. *C. B. 96; Approved February 26, 1891.*

CONTENTS.

- SECTION 1. Judgments shall become a lien upon real estate of judgment debtor in the county where docketed.
- SEC. 2. Recorder of each county shall record transcript of judgment in book kept for that purpose.
- SEC. 3. Items of judgment record to be kept by the clerks of the Supreme and district courts.
- SEC. 4. Judgment in U. S. court a lien upon real estate from date if transcript be filed in the county within sixty days.
- SEC. 5. Fees.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Any money judgment rendered in the Supreme or district court shall be docketed by the clerk of the court in a book kept for the purpose, and shall be a lien on the real estate of the judgment debtor from the date of the filing of a transcript of the docket of such judgment in such book in the office of the recorder of the county in which such real estate is situate.

SEC. 2. The recorder of each county shall record said transcript in a book kept for the purpose in his office, which book shall be in form like the aforesaid books to be kept by the clerks of the Supreme and district courts, with additional columns to show the dates of filing and recording.

SEC. 3. The books to be kept by the clerks of the Supreme and district courts shall show the names of the parties, the number and nature of the case, the court in which judgment was rendered, the date of judgment, amount of damages, amount of costs, total amount of judgment, date of docket, attorney for creditor, issuance and return of executions if any, and satisfaction of judgment when paid.

SEC. 4. Any judgment rendered in any district court in any county where court is held for the trial of causes arising under the laws of the United States, shall be a lien on the real estate of the judgment debtor in such county from the date of its rendition: *Provided*, The transcript hereinbefore mentioned shall be filed in the office of the recorder of said county within sixty days after said date of rendition; but such judgment may

be made a lien on the property of the judgment debtor at any time by a compliance with the provisions of the first section of this act.

SEC. 5. The clerk of the district court shall receive fifty cents for making and certifying each of said transcripts, and the county recorder shall receive fifty cents for filing and recording each of said transcripts.

SEC. 6. All acts and parts of acts in conflict with this act are repealed, and this act shall take effect immediately.

CHAPTER LXVIII.

AN ACT TO REPEAL SECTION 1365 OF THE COMPILED LAWS OF NEW MEXICO OF 1884. *C. B. 147; Approved February 26, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 1365 of the Compiled Laws of the Territory of New Mexico of 1884, relating to administrations, be and the same is hereby repealed.

SEC. 2. This act to be in force and take effect from and after its passage.

CHAPTER LXIX.

AN ACT TO AMEND SECTION 742 OF THE COMPILED LAWS OF NEW MEXICO. *C. B. 105; Approved February 26, 1891.*

CONTENTS.

SECTION 1. Larceny of books of account and papers. Penalty.

SEC. 2. As to certain property, no value need be alleged nor proven.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 742 of the Compiled Laws of the

Territory of New Mexico be and the same is hereby amended so as to read as follows:

"Every person who shall commit the crime of larceny, by stealing of the property of another any money, goods or chattels, or any bank note, bond, promissory note, bill of exchange, or other bill, order or certificate, or any books of accounts for or concerning money or goods, due or to become due, or to be delivered, or any deed of writing containing a conveyance of land or any other valuable contract in force, or any writ, process or public record, if the property stolen shall exceed the value of twenty dollars, shall be punished by imprisonment in the county jail or Territorial prison, not more than two years nor less than three months, or by fine not exceeding five thousand dollars."

SEC. 2. When the property stolen shall be an order, certificate, books of accounts for or concerning money or goods due, or to become due, or to be delivered, or any deed of writing containing a conveyance of land or other valuable contract in force, or any writ, process or public record, it shall not be necessary to allege or prove any value of the same.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER LXX.

AN ACT RELATING TO CITIES AND INCORPORATED TOWNS. *C. B.*
126; *Approved February 26, 1891.*

CONTENTS.

- SECTION 1. Having 3,000 or more population, and upon proclamation of the Governor and publication, town authorities may organize as a city.
- SEC. 2. Amends section 1672 of Compiled Laws substituting word "proclamation" for "statement."
- SEC. 3. Amends section 1682 of Compiled Laws, substituting words "any officer of a city" for "any officer appointed by the city council."
- SEC. 4. Election of city officers designated. Qualification, powers and duties. Compensation.
- SEC. 5. Amends section 1684 Compiled Laws, substituting word "Tuesday" for "day" in second line.

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Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 1671 of the Compiled Laws of New Mexico, 1884, be and the same is hereby amended so as to be and read as follows:

"Any incorporated town having a population of three thousand and upwards may apply to the Governor to make and issue a proclamation of the fact that such town is entitled to become a city, which said proclamation shall be issued upon a certificate from the United States Census Bureau, or other satisfactory evidence showing such population, being presented to said Governor; that the issuance of said proclamation shall be conclusive evidence of the fact of such population, and upon its being published in one newspaper at the Territorial capital and one newspaper in said town, and a certified copy being forwarded to the mayor of said town, the board of trustees may organize said town as a city by the election of the officers properly belonging thereto, and upon their election and qualification the term of office of the officers of said town shall expire."

SEC. 2. That section 1672 of said Compiled Laws be and the same is hereby amended by substituting the word "proclamation" for the word "statement" in the first line of said section 1672.

SEC. 3. That section 1682 of said Compiled Laws is hereby amended by substituting the words "any officer of a city" for the words "any officer appointed by the city council," in the fourth and fifth lines of said section 1682.

SEC. 4. That section 1683 of said Compiled Laws be and the same is hereby amended so as to read as follows:

"The qualified electors of cities shall, on the first Tuesday in April in each and every year, elect a mayor and a city clerk, who shall each hold their offices for the term of one year and until their successors are elected and appointed, a plurality vote being required to elect. The mayor shall be the presiding officer and shall vote when there is a tie vote, but not otherwise. He shall, in addition to the duties now devolving upon him by law, have full power to nominate all appointive officers, and if the persons so nominated shall receive a majority of the votes of the city council, then they shall hold their offices for the term for which they were appointed, unless removed as by law provided. When it may appear for the good of the city the council

may remit the fine of any person convicted for violation of any city ordinance. The appointive officers of cities are a city marshal, members of the police, a city attorney, and such other officers as may be by ordinance provided for. The city marshal shall before entering upon the duties of his office execute a good bond, to be approved of by the city council and filed in the office of the city clerk, in such sum as may be prescribed by ordinance, with two solvent sureties, for the faithful performance of the duties of his office, and all officers of cities shall take an oath to support the constitution of the United States, and faithfully to perform the duties of their offices. The city marshal shall receive such salary, not exceeding one hundred and fifty dollars per month, as may be fixed by ordinance. The city clerk shall perform all the duties of his office that may be fixed by ordinance, and receive such salary and fees as the city council may by ordinance declare. The city attorney shall perform such duties and upon such salary and compensation as the city council may by ordinance declare. The city council shall, as early as their last regular meeting before an annual election, fix the salaries and fees of all the officers of said city for the period of one year next ensuing the election and qualification of the officers elected at the next annual election."

SEC. 5. That section 1684 of said Compiled Laws is hereby amended by substituting the word "Tuesday" for the word "day" in the second line of said section 1684.

SEC. 6. That all acts and parts of acts or laws in conflict with this act are hereby repealed, and this act shall go into effect from and after its passage.

CHAPTER LXXI.

AN ACT TO PROVIDE A METHOD FOR ESTABLISHING THE RIGHTS OF APPROPRIATION OF WATER FOR DITCHES, CANALS OR FEEDERS OF RESERVOIRS, AND REQUIRING REGISTRATION OF ALL SUCH HEREFTER MADE, CHANGED OR ENLARGED. *H. B. 113; Approved February 26, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That every person, association or corporation hereafter constructing or enlarging any ditch, canal or feeder for any reservoir, and taking water from any natural stream, shall within ninety days after the commencement of such construction, change or enlargement, file and cause to be recorded in the office of probate clerk of the county in which such ditch, canal or feeder be situated, a sworn statement in writing, showing the name of such ditch, canal, or of the reservoir supplied by such feeder, the point at which the head-gate thereof is situated, the size of the ditch, canal or feeder, both in width and depth, the carrying capacity in inches, the description of the line thereof, the time when the work was commenced, the name or names of the owners thereof, together with a map showing the route thereof, the legal subdivisions of the land, if on surveyed lands, with proper corners and distances, and in case of an enlargement or change, the depth and width, also the carrying capacity of the ditch so enlarged or changed, and the increased capacity of the same thereby occasioned, and the time when such change or enlargement was commenced, and no priority of right for any purpose shall attach to any such construction, change or enlargement until such record is made.

SEC. 2. A copy of such sworn statement duly certified by the probate clerk of the county where such record is made shall be admitted as prima facie evidence of such appropriation of water in all the courts of this Territory: *Provided*, That the provisions of this act shall not affect any existing vested rights or any public acequia or ditch used for the public, and the canals, ditches or acequias authorized by this act to be constructed

shall be completed within five years from the time work shall be commenced on the same.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER LXXII.

AN ACT PROVIDING FOR MINORS. *H. B. 127; Approved February 26, 1891.*

CONTENTS.

SECTION 1. A citizen changing his residence from the Territory and abandoning legitimate children shall not dispose of property unless provision first be made for the support and education of said children.

SEC. 2. Property owned by such citizen subject upon petition to the district court to be appropriated to purposes of section 1.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. No person who has been, is now, or may hereafter be a citizen of this Territory, and who has departed from or left the same, and who shall have acquired, or may acquire, residence in any other part, leaving in this Territory any legitimate children under the age of twenty-one years, shall, either by will or otherwise, sell, convey, nor in any manner dispose of his or her property, real or personal, in this Territory, unless he or she shall first have made provision for the support and education of said minor child or children, to the satisfaction of the probate judge of the county wherein such child or children shall be, and any will, contract, deed, or other instrument in writing whereby it shall be proposed to convey any property contrary to the provisions of this act shall be and is hereby declared absolutely void and of no effect, and the same shall not be recorded nor verified in any public record in this Territory nor in any county thereof.

SEC. 2. That the probate judge of any county wherein such child or children shall be, or wherein any such property of any such person or persons shall be located, or any other interested party, may file in the district court of such county a petition,

addressed to the presiding judge thereof, stating that such child or children of such person or persons is or are within the county and that such person or persons have property in said Territory, and that said property and the proceeds thereof, or any part thereof, is necessary for the use of said child or children for their own support and education; and that said property, or so much thereof as may be necessary for said purposes, may be sold and applied for said uses, which said petition shall be filed in said district court as a bill in equity, and thereupon said suit shall be carried and determined as other causes in equity in said court, and if the court shall be satisfied that the proceeds of said property, or any part thereof, shall be necessary for the support and education of said child or children, the court shall decree in said cause, directing the sale of said property, or so much thereof as may be necessary for the proper sustenance and education of said child or children, and shall appoint a proper person to act as guardian of said child or children, who shall receive and disburse the proceeds of any such sale; and said sales shall be conducted and be made as other sales under a decree in equity in said court.

SEC. 3. All laws and parts of acts in conflict with this act are hereby repealed, and this act shall be in full force and effect from and after its passage.

Translation.

CHAPTER LXXIII.

AN ACT RELATING TO THE TERMINATION OF LEASES UPON MINES.
C. B. 106; Approved February 26, 1891.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Hereafter any lease upon any mine, or portion of a mine, not given in writing, for a specified time, shall not be terminated until after notice of the date of such termination, given by the lessor to the lessee, not less than thirty days prior to such date of termination.

SEC. 2. The lessor and the mine upon which any lease is terminated without thirty days notice, as provided in section 1

of this act, shall be liable to the lessee for all damages resulting from such termination: *Provided*, That nothing in this act shall prevent the forfeiture and termination of any such lease without such notice when the lessee is working the leased ground in such manner as to damage the property.

SEC. 3. This act shall be in full force and effect from and after its passage.

CHAPTER LXXIV.

AN ACT FOR THE PROTECTION OF MINES AND MINING CLAIMS. C.
B. 120; *Approved February 26, 1891.*

CONTENTS.

SECTION 1. Larceny of ores from any mine declared felony. Liability for value thereof.

SEC. 2. Purchasers having guilty knowledge accessory after the fact, subject to same punishment.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Any person wrongfully extracting or carrying away or concealing or selling or attempting to sell ores from any mine being the property of another, shall be deemed guilty of felony, and on conviction thereof shall be punished as for grand larceny; and the defendant or defendants shall be liable to the owner or owners of said ore for the value thereof, recoverable by an action at law.

SEC. 2. Any person or persons who shall knowingly purchase or contract to purchase, or make any payment for or on account of any ore which shall have been wrongfully extracted or stolen from any mine, shall be considered an accessory after the fact to the unlawful extracting or stealing of such ore, and upon conviction shall be subjected to the same punishment to which the principals may be liable.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in full force and effect from and after its passage.

CHAPTER LXXV.

AN ACT FIXING THE SALARY OF THE TERRITORIAL LIBRARIAN.
H. B. 174; Approved February 26, 1891.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 1 of an act entitled, "An Act fixing the salary of the Territorial Librarian, and for other purposes," approved February 24, 1887, is hereby amended to read as follows:

"That the salary of the Territorial Librarian is hereby fixed at the sum of seventy-five dollars per month, payable monthly, from and after the 1st day of March, A. D. 1891, and no person shall be qualified to be appointed to or to hold said office unless he be able to speak, read and write both the English and Spanish languages fluently. The librarian shall have the right to leave any competent person in his place during any time that he may be absent or that it may be impossible for him to attend to his duties as librarian: *Provided*, That he pays said person himself and that he be responsible for the actions of said person as librarian."

SEC. 2. That all laws and parts of laws in conflict with this act are hereby repealed, and this act shall be in force from and after its passage and approval.

CHAPTER LXXVI.

AN ACT FIXING THE SALARIES OF DISTRICT ATTORNEYS IN THE DISTRICTS OF DONA ANA, SOCORRO AND LINCOLN, CHAVES AND EDDY, AND FOR OTHER PURPOSES. *C. B. 71, 85; Approved February 26, 1891.*

CONTENTS.

SECTION 1. Salaries to be paid by the Territory.

SEC. 2. Additional salaries to be paid by the counties.

SEC. 3. Duties of district attorneys.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The district attorneys of the districts of Doña Ana, Socorro and Lincoln, Chaves and Eddy shall receive salaries, to be paid by the Territorial Treasurer quarterly, on the warrant of the Auditor, as follows, to-wit:

The district attorney for the district of Socorro county, four hundred dollars per annum. The district attorney of the district of Lincoln, Chaves and Eddy counties, five hundred dollars per annum; and the said attorneys shall also receive all fees now fixed by law to be paid district attorneys.

SEC. 2. In addition to the salaries provided for in the foregoing section, the district attorney for the county of Doña Ana shall receive a salary from said county of three hundred dollars per annum; for the district of Socorro county, the district attorney shall receive from said county a salary of three hundred dollars per annum; and for the district of Lincoln, Chaves and Eddy counties, the district attorney shall receive from Lincoln county a salary of two hundred dollars per year; from Chaves county, a salary of one hundred and fifty dollars per year; and from Eddy county, one hundred and fifty dollars per year. The amounts named herein to be paid quarterly by the county commissioners from the county funds: *Provided, however,* That the county commissioners of the respective counties of Lincoln, Chaves and Eddy may, when they deem it necessary in the absence or inability of the district attorney to attend to any matter in which the county has an interest, employ any other competent attorney within the county to transact or attend to such business, but the compensation therefor, in any particular or separate matter, shall not exceed fifty dollars.

SEC. 3. It shall be the duty of each of the district attorneys in this Territory to prosecute and defend for the Territory in all courts of record of the county or counties in their respective districts, all causes, criminal and civil, in which the Territory or any county for which he may be such district attorney may be a party or interested or concerned; and he shall represent the county before the board of county commissioners of any county for which he may be district attorney, and shall upon request give his opinion in writing upon any matter of law which may arise before the board of county commissioners or any county officer with reference to their duties or to any matter pending

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, or in connection with the business of the county, further perform all other duties now required by law attorneys.

SEC. 4. This act shall take effect and be in force from and after its passage.

CHAPTER LXXVII.

Enacted 6/17/91 by the legislature
AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH COMMON SCHOOLS IN THE TERRITORY OF NEW MEXICO AND CREATING THE OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION,"

APPROVED FEBRUARY 11, 1891. *G. B. 134; Approved February 26, 1891. (pp 45) 104, 119 this book 293 pg 58, 75, 3*

CONTENTS.

- SECTION. 1. School fund derived from general tax levy shall be paid direct to county treasurer. Apportionment.
- SEC. 2. Actual necessary expenses of the Territorial Board of Education shall be audited and paid.
- SEC. 3. Compensation of county superintendents proportioned to number of districts in county at the commencement of his term of office.
- SEC. 4. Payment of poll tax a qualification to the right to vote.
- SEC. 5. Property exempt from taxation for school purposes. Mines pay on net output.
- SEC. 6. Municipal corporations shall be governed by the provisions of this act.
- SEC. 7. Schools in municipal corporations free. An exception.
- SEC. 8. When adjacent territory may be attached to municipal corporations for school purposes. Representation.
- SEC. 9. Public schools organized under this act shall be a body corporate, hold real estate, etc.
- SEC. 10. Property heretofore owned for school purposes upon request shall be conveyed to local board of education.
- SEC. 11. How deed shall be executed.
- SEC. 12. Board of education shall be elected by municipal corporations. *Provided, etc.*
- SEC. 13. Power to fill vacancies.
- SEC. 14. Power to elect officers except treasurer. Establish high school when necessary, etc.
- SEC. 15. At May meeting shall elect officers.
- SEC. 16. Treasurer of municipal corporation shall be ex-officio treasurer of the board. Bond. Duties. Compensation.
- SEC. 17. No member of the board of education shall receive pay or emoluments.
- SEC. 18. Duties of the president of the board.
- SEC. 19. Duties of the vice president.
- SEC. 20. Duties of the clerk.
- SEC. 21. Clerk shall give bond.
- SEC. 22. Additional tax levy by board to be placed on county tax roll and collected as other taxes.
- SEC. 23. Property subject to taxation. Taxes collected shall be deposited with treasurer subject to order of board of education.
- SEC. 24. Regular and special meetings of the board.

- SEC. 25. Reports, printing and distribution of same.
 SEC. 26. Expenditures. Limitation.
 SEC. 27. Sectarian doctrines shall not be taught in the public schools.
 SEC. 28. School property exempt from taxation.
 SEC. 29. Bonds when voted may be issued for public school purposes stated. Terms of bonds.
 SEC. 30. Calling of an election to vote bonds. Returns.
 SEC. 31. Terms of bonds; by whom executed.
 SEC. 32. Tax levy for interest and sinking fund. Proviso.
 SEC. 33. Interest coupons shall be promptly paid, and how canceled.
 SEC. 34. School fund and school property pledged in payment of interest.
 SEC. 35. Duty of clerk to register bonds.
 SEC. 36. Official oaths and filing.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That the school fund derived from the general levy of three mills on the dollar of taxable property, shall be paid directly by the several collectors to the treasurers of their respective counties to the credit of the county school funds, and shall be apportioned as now provided by law, together with all the county school fund, by the county superintendent of schools, on the first Mondays in January, April, July and October. *See 24 chp 20 this book*

SEC. 2. The actual necessary expenses of the members of the Board of Education, incurred in attending the meetings thereof, shall be audited by the Auditor of the Territory, and paid out of any school funds in the Territorial treasury.

SEC. 3. County superintendents hereafter elected shall receive pay for their services and expenses as follows: In counties having fifteen school districts or less, two hundred and fifty dollars per annum; in counties have more than fifteen school districts but not more than twenty-five, five hundred dollars per annum; in counties having more than twenty-five school districts, but not more than thirty-five, seven hundred and fifty dollars per annum; in counties having more than thirty-five school districts, and not more than forty-five, one thousand dollars per annum; in counties having more than forty-five school districts, and not more than fifty-five, twelve hundred and fifty dollars per annum; in counties having more than fifty-five school districts, and not more than sixty-five, fifteen hundred dollars per annum; in counties having more than sixty-five school districts, seventeen hundred and fifty dollars per annum; to be paid out of the school funds of the respective counties, and payable quarterly upon the order of the county commissioners upon the county treasurer: *Provided*, That such compensation *See 11 chp 20 this book*

shall be made according to the number of school districts as they exist at the commencement of the terms of office of the several superintendents.

SEC. 4. That it shall be illegal for any person to vote or attempt to vote at any election who has not paid his poll tax for the current year, and said payment must be made, in case of a general election, at least sixty days previous to such election day.

SEC. 5. That the following classes of property shall be exempt from taxation for school purposes: Property of the United States, of this Territory, of counties, cities, towns and other municipal corporations when devoted entirely to public use, and not held for pecuniary profit; all public libraries; the grounds, buildings, books, papers and apparatus of literary, scientific, benevolent, agricultural and religious institutions, and societies devoted exclusively to the appropriate object of those institutions, and not leased or otherwise used with a view to pecuniary profit; and cemeteries not held for pecuniary profit: *Provided*, That mines and mining claims shall pay a tax upon the net product and upon the surface improvements only.

SEC. 6. All cities and towns now organized by virtue of the authority of former acts, and all cities and towns hereafter organized under any law of this Territory, shall be governed by the provisions of this act.

SEC. 7. In each city or town governed by this act there shall be established and maintained a system of free common schools, which shall be kept open no less than three nor more than ten months in any one year, and shall be free to all children residing in such city or town, between the ages of five and twenty years. But the board of education may, when school room accommodations are insufficient, exclude for the time being children between the ages of five and seven years.

SEC. 8. Territory outside the city limits, but adjacent thereto, may be attached to such city or town for school purposes upon application to the board of education of such city or town by a majority of the electors of such adjacent territory, and upon such application being made to the board of education they shall, if they deem it proper and to the best interests of the school of said city or town and the territory seeking to be attached, issue an order attaching such territory to such city or town for school purposes, and to enter the same upon their

journal, and such territory shall from the date of such order be and compose a part of such city or town for school purposes only, and the taxable property of such adjacent territory shall be subject to taxation and shall bear its full proportion of all expenses incurred in the erection of school buildings and in maintaining the schools of such city or town. Whenever the territory so attached shall have attained a population equal to that of any ward of such city or town, or whenever the taxable property of such attached territory shall equal that of any one ward of such city or town, such attached territory shall be entitled to elect two members of the board of education, who shall be elected at the same time that other members of the board are elected, by the qualified electors of such territory, at an election to be held at such place as the board of education may designate.

SEC. 9. The public schools of each city organized in pursuance of this act shall be a body corporate, and shall possess the usual powers of a corporation for public purposes, by the name and style of the "board of education of the city (or town) of _____, of the Territory of New Mexico," and in that name may sue or be sued and be capable of contracting and being contracted with, of holding and conveying such real and personal estate as it may come into possession of by will or otherwise, or as is authorized to be purchased by the provisions of this act.

SEC. 10. Any city or town is hereby authorized and required, upon the request of the board of education of such city or town, to convey to said board of education all property within the limits of any such city or town heretofore purchased by any such city or town for school purposes and now held and used for such purpose, the title to which is vested in any such city or town.

SEC. 11. All conveyances for the property mentioned in the preceding section shall be signed by the mayor and attested by the clerk of said city or town, and shall have the seal of the city or town affixed thereto and be acknowledged by the mayor of such city or town, in the same manner as other conveyances of real estate.

SEC. 12. At each annual city or town election there shall be a board of education, consisting of two members from each ward, elected by the qualified voters thereof, one of whom shall

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be elected annually, and shall hold his office for a term of two years and until his successor is elected and qualified: *Provided*, That no member of the board of education shall be a member of the council or town trustees, nor shall any member of the council or town trustees be a member of the board of education.

SEC. 13. The board of education shall have power to fill any vacancy which may occur in their body: *Provided*, That any vacancy occurring more than ten days previous to the annual election and having an unexpired term of one year shall be filled at the first annual election thereafter; and the ballots and returns of elections shall be designated as follows: "To fill unexpired term."

SEC. 14. The board of education shall have power to elect their own officers, except the treasurer; to make their own rules and regulations, subject to the provisions of this act; to organize and maintain a system of graded schools; to establish a high school whenever in their opinion the educational interests of the city demand the same, and to exercise the sole control over the schools and school property of the city or town.

SEC. 15. The board of education, at its regular meeting in May of each year, shall organize by the election of a president and vice president from among its own members, each of whom shall serve for the term of one year or until their successors are elected and qualified; they shall also elect a clerk, who shall hold his office during the pleasure of the board, and who shall receive such compensation for his services as the board may allow.

SEC. 16. The treasurer of the city or town shall be ex-officio the treasurer of the board of education, and shall give such bond to the board of education as the board may require, said bond to be approved by the board of education and filed with its clerk. It shall be the duty of the treasurer to deposit daily all money belonging to the board of education in some responsible bank, to be designated by the board of education, in the name of such treasurer as such officer, which bank shall pay interest on monthly average balances as may be agreed upon by such bank and the board of education, and before making such deposits the board of education shall take from such bank a good and sufficient bond in a sum to be designated by the board of education, conditioned that such deposit shall be paid on the check or draft of said treasurer. The treasurer shall

attend all of the meetings of the board when required to do so; shall prepare and submit in writing a monthly report of the finances of said board, and shall pay school moneys only upon a warrant signed by the president or, in his absence, by the vice president, and countersigned by the clerk. The treasurer shall receive from the board of education fifty dollars per annum for his services as treasurer, and no more.

SEC. 17. No member of the board of education shall receive any pay or emolument for his services.

SEC. 18. It shall be the duty of the president to preside at all meetings of the board of education, to appoint all committees, whose appointment is not otherwise provided for, and to sign all warrants ordered by the board of education to be drawn upon the treasurer for school moneys.

SEC. 19. It shall be the duty of the vice president to perform all the duties of the president in case of his absence or disability.

SEC. 20. It shall be the duty of the clerk to be present at all meetings of the board, to keep an accurate journal of its proceedings, to take charge of its books and documents, to countersign all warrants for school moneys drawn upon the treasurer by order of the board of education, and perform such other duties as the board of education or its committees may require.

SEC. 21. Before entering upon the discharge of his duties the clerk of the board of education shall give bond in the sum of one thousand dollars, with good and sufficient sureties, to be approved by the board, conditioned for the faithful performance of the duties of his office.

SEC. 22. The board of education shall on or before the 1st day of August of each year levy a tax for the support of the schools of the city or town for the fiscal year next ensuing, not exceeding in any one year five mills on the dollar, on all personal, mixed and real property within the district which is taxable according to the laws of the Territory of New Mexico for school purposes, which levy shall be approved by the city council or town trustees; and when so approved the clerk of the board shall certify [it] to the county clerk, who is hereby authorized and required to place the same on the tax roll of said county, to be collected by the collector of the county as are other taxes, and paid over by him to the treasurer of the board of education, of whom he shall take a receipt in duplicate, one of

which he shall file in his office, and the other he shall forthwith transmit to the clerk of the board of education. This section shall not be construed to change, alter, modify or amend section 1 of this act or any part of the act of which it is an amendment, with reference to the amount to be raised by taxation for school purposes; but the provisions of this section with reference to taxation for schools under this section, and said law, shall be held and taken to be in addition to the provisions of the act above referred to in this section.

SEC. 23. The taxable property of the whole city or town, including the territory attached for school purposes, shall be subject to taxation. All taxes collected for the benefit of the schools shall be paid in money, and shall be placed in the hands of the treasurer, subject to the order of the board of education.

SEC. 24. The regular meetings of the board of education shall be upon the first Monday of each month, but special meetings may be held from time to time, as circumstances may demand.

SEC. 25. The board of education, at the close of each school year, or as soon thereafter as practicable, shall make an annual report of the progress, prosperity and condition, financial as well as educational, of all the schools under their charge; and said report, or such portion of it as the board of education shall consider of advantage to the public, shall be printed either in a public newspaper or in pamphlet form, and a copy furnished the county and the Territorial Superintendent.

SEC. 26. No expenditure involving an amount greater than two hundred dollars shall be made except in accordance with the provisions of a written contract, and no contract involving an expenditure of more than five hundred dollars, for the purpose of erecting any public buildings or making any improvements, shall be made except upon sealed proposals, and to the lowest responsible bidder.

SEC. 27. No sectarian doctrine shall be taught or inculcated in any of the public schools of the city or town.

SEC. 28. All property held by the board of education for the use of public schools shall be exempt from taxation, and shall not be taken in any manner for any debt due from the city.

SEC. 29. Any city or incorporated town in this Territory, which shall by the action of its common council, trustees or

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school directors, have purchased any ground and building or buildings, or may hereafter purchase any ground and building or buildings, or has commenced or may hereafter commence the erection of any building or buildings for school purposes, or which shall have by its school directors, common council or trustees, contracted any debts for the erection of such building or buildings, or the purchase of such ground and building or buildings, or such school directors, trustees or common council, shall not have the necessary means with which to complete such building or buildings, or to pay for the purchase of such ground and building or buildings, or pay such debt, may on filing by the school directors, trustees or common council, of said city or town of a report under oath with the board of education of such city or town, showing the estimated or actual cost of any such ground and building or buildings, or the amount required to complete such building or buildings, or purchase such ground and building or buildings, or the amount of such debt, it shall be lawful for the board of education to order an election for the issuing of bonds of said school district in said city or town, to an amount to liquidate such proposed indebtedness. And the said board of education are hereby authorized and empowered to issue such bonds in conformity with the requirements, and in like manner that school bonds are issued. And said board of education are authorized and empowered to issue bonds to raise funds for the purchase of school site or sites, or to erect a suitable building or buildings thereon, or to fund any bonded indebtedness for school purposes of such city or town: *Provided*, That no bonds shall be issued until the question shall be submitted to the people and a majority of the qualified electors who shall vote on the question, at an election called for that purpose, shall have declared by their votes in favor of issuing such bonds. The rate of interest on such bonds shall not exceed six per cent per annum, payable annually or semi-annually, at such place as may be mentioned upon the face of said bonds, which bonds shall be payable in no less than twenty nor more than thirty years from their date, and the board of education is hereby authorized and empowered to sell such bonds at not less than par.

SEC. 30. It shall be the duty of the mayor of each city or town governed by this act, upon the request of the board of education, forthwith to call an election to be conducted in all respects as are the elections for city or town officers in the same

cities or towns, except that the returns shall be made to the board of education for the purpose of taking the sense of such district upon the question of issuing such bonds, naming in the proclamation of such election the amount of bonds asked for, and the purpose for which they are to be issued.

SEC. 31. The bonds, the issuance of which is provided for in the foregoing section, shall be signed by the president, attested by the clerk and countersigned by the treasurer of the board of education; and said bonds shall specify the rate of interest and the time when principal and interest shall be paid, and each bond so issued shall be for a sum not less than fifty dollars.

SEC. 32. The board of education at the time of its annual levy of taxes for the support of schools, as hereinbefore provided, shall also levy a sufficient amount to pay the interest as the same accrues on all bonds issued under the provisions of this act, and also to create a sinking fund for the redemption of said bonds, which it shall levy and collect, in addition to the rate per cent authorized by the provisions aforesaid for school purposes; and said amount of funds, when paid into the treasury, shall be and remain a specific fund for said purpose only, and shall not be appropriated in any other way except as hereinafter provided. *Provided*, There shall be no levy for sinking fund until ten years after the issue of such bonds, if they be for twenty years; and twenty years after the issue if they be for thirty years, and the levy in any one year shall not exceed five mills on the dollar for such sinking fund, and the total levy in any one year shall not exceed ten mills on the dollar for all purposes: *Provided, further*, That the levy for interest on such bonds as may be issued by such city or town shall not exceed in any one year an amount required to pay the annual interest.

SEC. 33. Whenever the interest coupons of the bonds hereinbefore authorized shall become due, they shall be promptly paid, on presentation by the treasurer, out of any money in his hands collected for that purpose, and he shall indorse upon the face of such coupons in red ink the word, "Paid," and the date of payment, and sign the initials of his name.

SEC. 34. The school fund and property of such city or town and Territory attached for school purposes is hereby pledged to the payment of the interest and principal of the bonds mentioned in this act, as the same may become due.

SEC. 35. It shall be the duty of the clerk of the board of education to register in a book provided for that purpose the bonds issued under this act, and all warrants issued by the board, which said register shall show the number, date and amount of said bonds, and to whom made payable.

SEC. 36. Each member of the board of education and officer provided for in this act shall take and subscribe an oath or affirmation to support the constitution of the United States and the laws of New Mexico, and faithfully perform the duties of his office. The oath and bond of the clerk shall be filed with the treasurer; and all other oaths and bonds shall be filed with the clerk.

SEC. 37. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER LXXVIII.

AN ACT IN RELATION TO AGRICULTURAL COLLEGE AND AGRICULTURAL EXPERIMENT STATION. *H. B. 88; Approved February 26, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The assent of the Legislative Assembly of the Territory of New Mexico is hereby given, in pursuance of the requirements of section 2 of an act of Congress entitled "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of Congress approved July 2, 1862," approved August 30, 1890, to the granting of moneys for the benefit of the Agricultural College of the Territory of New Mexico, and the said Legislative Assembly accepts and consents to all of the terms and conditions of said act of Congress, and assent is further given to carry out within the Territory of New Mexico all and singular the provisions of said act of Congress.

CHAPTER LXXIX.

AN ACT FOR THE FINANCIAL RELIEF OF COUNTIES AND MUNICIPALITIES. *H. B. 192; Approved February 26, 1891.**Supps 46, 29*

CONTENTS.

- SECTION 1. Every county and municipality is authorized and required to refund its matured and maturing indebtedness. Proviso.
- SEC. 2. Denomination of bonds, how issued and signed. *Provided*, etc.
- SEC. 3. A record shall be kept of the bonds so issued. Cancellation. Registration.
- SEC. 4. Proper officers shall make provision for interest. Penalty. Diverting interest money. Penalty.
- SEC. 5. Officers willfully neglecting to make tax levy for interest or pay over, subject to penalty and forfeiture of office.
- SEC. 6. Bonds shall be numbered and redeemable at option after fifteen years.
- SEC. 7. Interest coupons receivable for taxes in county where issued.
- SEC. 8. After fifteen years a sinking fund shall be provided and bonds paid. Advertising.
- SEC. 9. Not applicable to any indebtedness while in litigation.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Every county and municipality is hereby authorized and required to compromise and refund its matured and maturing indebtedness evidenced by outstanding bonds, interest coupons, or judgments, whenever the holders and owners thereof shall consent thereto, and to issue new bonds, with semi-annual interest coupons attached, in payment or exchange for any sum so compromised or refunded, which new bonds shall not be for a longer period than thirty years from the date thereof respectively, shall not exceed in amount the actual amount of the indebtedness surrendered and canceled at the time of their issue and in consideration thereof, and shall bear a less rate of interest than six per cent per annum.

SEC. 2. Bonds issued under this act by any county shall be signed by the chairman of the board of county commissioners and attested by the probate clerk under the seal of the said board, and shall be countersigned by the treasurer of such county; and bonds issued under this act by any municipality shall be signed by the mayor or other executive head thereof and attested by its clerk under its seal, and countersigned by its treasurer. Such bonds may be in the denomination of one hundred dollars or any multiple thereof up to one thousand dollars, and when necessary may be for any fraction of one hundred dollars,

and they may be made payable at such place as may be designated upon the face thereof; and they shall be in negotiable form; and they shall carry a binding recital that they are issued under this act and that the terms and conditions of this act have been fully complied with by the authorities concerned in their issue. The interest coupons attached to such bonds shall bear, in the case of county bonds, the signatures of the said chairman and county treasurer, and, in the case of municipal bonds aforesaid, the signatures of the mayor or other executive head and treasurer of the municipality; and all signatures on such interest coupons shall be written: *Provided*, That no provision of this act shall be construed to conflict with the provisions of an act of Congress of 1886, limiting the amount of indebtedness of counties.

SEC. 3. A record shall be kept by the several probate clerks of counties and by the several clerks of cities or other municipalities of all bonds issued by such counties, cities, or other municipalities, respectively, under this act, showing the date, number, and amount of each such bond, to whom and on what account issued, and when the same becomes due; and all bonds or coupons refunded under this act shall have the words, "Refunded" and "Canceled," marked in a plain manner across the face of each bond and coupon so refunded; and such canceled obligations shall be carefully preserved in the office of the probate clerk, or destroyed by the board of county commissioners, in the case of county bonds, and shall be carefully preserved in the office of the clerk of any city or other municipality, or destroyed by the common council or like authority, in the case of bonds of any city or other municipality; a register of the number, amount and date of issue of each bond or coupon so refunded and canceled being first made by the proper clerk aforesaid.

SEC. 4. Due and sufficient provision for the payment of the interest semi-annually accruing on all bonds to be issued under this act shall be made in each and every year by the authorities authorized by law to assess and levy taxes in any county, city, or other municipality respectively concerned; and, in case of failure to make such due and sufficient provision in any general tax levy such authorities shall immediately make a special tax levy adequate for such provision; and, in case of failure on the part of any officer or authorities legally and adequately to assess

property and levy and collect taxes for the payment of such interest, according to the intent of this section, or to perform any duty hereby enjoined, or in case of absence, neglect or refusal, on the part of any such officer or authorities, in respect to any duty or duties aforesaid, or in case of any vacancy in any office concerned in effectuating the intent of this section, the district court in and for the said county, either in term time or in vacation, shall nominate and authorize some person or persons to discharge such neglected or unperformed duty or duties, and shall immediately enforce the performance thereof; and all taxes collected for the payment of such interest shall constitute a special fund, and not be diverted to any other purpose; and any officer misappropriating or diverting such fund or any part thereof, or any taxes collected for such purpose, shall be deemed guilty of a misdemeanor, and shall be punished by a fine equal to the amount so misappropriated or diverted, and by imprisonment in the Territorial Penitentiary for the period of not less than one year nor more than ten years, and shall forever forfeit the right to hold office under the laws of this Territory.

SEC. 5. Any officer who shall willfully and against his duty refuse to levy, collect or pay over the interest moneys provided for in section 4 of this act, or any part of such moneys, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding five thousand dollars, and by imprisonment in the Territorial Penitentiary for the period of one year, and his conviction of such misdemeanor shall immediately forfeit and vacate his office. The official bond of every officer upon whom a fine shall be imposed under any provision of this act, shall be collateral security for the payment of such fine and the costs of prosecution.

SEC. 6. All bonds issued under this act shall be numbered consecutively, and each interest coupon shall bear the same number as the bond to which it is attached, and shall show the date of maturity of such coupon and bond; and every such bond shall be redeemable at the option of the obligor at any time after the expiration of fifteen years from its date.

SEC. 7. The said interest coupons maturing in any year shall be payable and receivable in lieu of cash from the holder and owner of said bonds, for like amount in payment of any taxes due by said holder and owner of said bonds, payable in that year

and pertaining to the treasury of the county or municipality issuing such coupons respectively.

SEC. 8. After the expiration of fifteen years from the date of the first issue of refunding bonds under this act, and annually thereafter until all bonds to be issued thereunder shall be paid, or until money for that purpose shall have been provided, the proper authorities of each county and municipality concerned shall respectively provide a sinking fund for such payment and to that end shall levy a tax equal to at least ten per centum and not more than twenty per centum of the amount of such bonds as at the time of making any such levy respectively shall have been outstanding fifteen years or upwards; and whenever funds to the amount of one thousand dollars shall come into the hands of the treasurer of such county or municipality respectively to the credit of such sinking fund, he shall give notice by publication once a week for at least four consecutive weeks in some newspaper published in his county, or, if there be no newspaper published in such county, then in a newspaper published nearest to said county, and also by like publication in a newspaper published in the city of New York, that upon presentation of a certain bond or bonds, of the refunding bonds authorized by this act, designating it or them by number, date and amount, he will pay the same; and interest upon such bond or bonds, shall cease thirty days after the last publication aforesaid; and all said bonds shall be called for redemption in the order of their number, beginning with number 1.

SEC. 9. This act shall not apply to any indebtedness of any county or municipality while the same is in dispute and litigation in the courts.

SEC. 10. This act shall be in full force and effect from and after its passage.

CHAPTER LXXX.

AN ACT IN RELATION TO CRIMES, PUNISHMENT AND CRIMINAL PROCEDURE. *C. B. 108; Approved February 26, 1891.*

CONTENTS.

SECTION 1. Murder defined.

SEC. 2. Express malice defined.

SEC. 3. When malice shall be implied.

SEC. 4. Murder in the first degree defined.

SEC. 5. Murder in the second degree defined.

SEC. 6. Murder in the third degree defined.

SEC. 7. Punishment under the various degrees of murder.

SEC. 8. Larceny, embezzlement, and feloniously receiving stolen goods. Penalty.

SEC. 9. Robbery and burglary. Penalty.

SEC. 10. Punishment within the limits of law assessed by the court. Jury may recommend clemency.

SEC. 11. This act not to be construed to affect offenses dating prior to this act..

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Murder is the unlawful killing of a human being, with malice aforethought, either express or implied. The unlawful killing may be effected by any of the various means by which death may be occasioned.

SEC. 2. Express malice is that deliberate intention unlawfully to take away the life of a fellow creature which is manifested by external circumstances capable of proof.

SEC. 3. Malice shall be implied when no considerable provocation appears, or when all circumstances of the killing show a wicked and malignant heart.

SEC. 4. All murder which shall be perpetrated by means of poison, or lying in wait, torture, or by any kind of willful, deliberate and premeditated killing, or which is committed in the perpetration of or attempt to perpetrate any felony, or perpetrated from a deliberate and premeditated design unlawfully and maliciously to effect the death of any human being, or perpetrated by any act greatly dangerous to the lives of others, and indicating a depraved mind regardless of human life, shall be deemed murder in the first degree.

SEC. 5. All murder which shall be perpetrated without a design to effect death, by a person while engaged in the commission of a misdemeanor, or which shall be perpetrated in the heat of passion without design to effect death, but in a cruel and unusual manner, or by means of a dangerous weapon, unless it is committed under such circumstances as constitute excusable or justifiable homicide, or which shall be perpetrated unnecessarily, either while resisting an attempt by the person killed to commit any offense against person or property, or after such attempt shall have failed, shall be deemed murder in the second degree.

SEC. 6. Every killing of a human being by the act, procurement or culpable negligence of another, which under the pro-

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visions of this act is not murder in the first or second degrees, and which is not excusable or justifiable homicide as now defined by law, shall be deemed murder in the third degree.

SEC. 7. Every person convicted of murder in the first degree shall be punished by death; every person convicted of murder in the second degree shall be punished by imprisonment in the Territorial Penitentiary for any period of time not less than three years; every person convicted of murder in the third degree shall be punished by imprisonment in the Territorial Penitentiary for a period of time not less than one year nor more than ten years.

SEC. 8. Every person convicted of the crime of larceny, or of the crime of embezzlement, or of the crime of feloniously receiving stolen goods or property, shall be punished by imprisonment in the Territorial Penitentiary not less than one year nor more than ten years, if the value of the property stolen, embezzled, or feloniously received shall exceed twenty-five dollars; and by imprisonment in the county jail not more than six months, or by fine not exceeding two hundred dollars, or by both such fine and imprisonment, if the value of such property shall be twenty five dollars or less. 730,742 CB57 pg 126 this bill

SEC. 9. Every person convicted of the crime of robbery, or of the crime of burglary, shall be punished by imprisonment in the Territorial Penitentiary not less than three nor more than fifteen years. 748 CB84

SEC. 10. In the trial of all criminal cases punishment within the limits prescribed by law shall be assessed by the court in its discretion; but juries may, in their discretion, upon return of a verdict of guilty in any criminal case, recommend defendant to the clemency of the court, and any such recommendation shall receive due consideration by the court. 2468 CB84

SEC. 11. This act shall not be construed in any manner to affect offenses committed prior to the passage thereof, but all such offenses shall be prosecuted under the existing laws; and this act shall take effect from and after its passage as to all offenses committed subsequent to the passage of this act, and as to such last mentioned offenses, all acts and parts of acts in conflict with this act are hereby repealed.

CHAPTER LXXXI.

AN ACT LIMITING THE CHARGES OF EXPRESS COMPANIES AND OTHERS, AND FOR OTHER PURPOSES. *H. B. 159; Approved February 26, 1891.*

CONTENTS.

SECTION 1. Express companies shall keep an office at every railway station where there is a railroad agent.

SEC. 2. Limitation of charges for transportation.

SEC. 3. Penalty for violating provisions of this act. Grievances. No discrimination.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Every corporation, company, association or individual transacting or doing an express business in this Territory on the line of any railroad in this Territory shall keep and establish an agency and office of business at every station on said railroad in this Territory at which the railroad company may have an agent, for the purpose of receiving and delivering express matter.

SEC. 2. No company, association or individual engaged in the transaction of, or doing an express business in this Territory, shall charge, demand or receive for the transportation and delivery of any express matter within the limits of this Territory, more than one and one-half times the ordinary and usual rate charged as freight by the railroad companies for the same class of matter between the same points within the limits of this Territory, when shipped as freight in one hundred pounds or upwards: *Provided*, When the matter so transported by express is as much as fifty pounds and less than one hundred pounds, such corporation, association or individual may charge five per cent in addition to the amount above allowed, and when the quantity is less than fifty pounds, then such charges may be increased to ten per cent additional, and all individuals, associations and corporations shall have equal rights to have their express matter transported by such companies, associations and individuals engaged in transacting and doing an express business; but in no event shall any company, corporation, association or individual be allowed to charge more than the rate

charged at present by such company, corporation, association or individual for the same class or kind of freight.

SEC. 3. Any company, association or individual or individuals who may violate any of the provisions of this act shall, upon conviction, be deemed guilty of a misdemeanor, and fined in any sum not less than twenty dollars nor more than two hundred dollars, and for each violation thereof shall also be liable to pay to the person aggrieved or injured thereby the sum of fifty dollars, which may be recovered in an appropriate action brought by the person aggrieved or injured. On demand of any person aggrieved, or of the grand jury, or of any district attorney or solicitor general, every such company, association, corporation, or individual transacting or doing an express business in this Territory shall furnish all of its books and accounts, and give all other information connected with its business as to its rates and charges which may be required, and it shall be illegal for any such company, corporation, association or individual to make any discrimination in rates, or to give or grant any preferences in the rates charged to any one individual or person over another in this Territory, or to discriminate in favor of, or to make any preference in its or his rates in favor of one place or point as against another; but all rates shall be uniform and in proportion to the distance which express matter may be transported, and no such corporation, individual, association or company shall charge any more for expressage on any matter when collected at the place of delivery than the lowest amount charged by it or him or them at the point where such express matter may be received when the charges on such express matter may be paid in advance.

SEC. 4. This act shall take effect and be in force from and after its passage.

CHAPTER LXXXII.

AN ACT TO DEFINE EXPRESS COMPANIES AND TO PRESCRIBE THE MODE OF TAXING THE SAME, AND TO FIX THE RATE OF TAXATION THEREON. *U. B. 19; Approved February 26, 1891.*

CONTENTS.

SECTION 1. Defines express companies.

SEC. 2. Annually shall deliver statement of receipts, and pay two per cent upon net receipts. Penalty. Distribution of receipts.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Any person, persons, joint stock association, company or corporation incorporated under the laws of any State, Territory or country, conveying to, from or through this Territory or any part thereof, money, packages, gold, silver plate, articles, goods, merchandise, or effects of any kind by express, on contract with any railroad or stage or other company, or the managers, lessees, agents or receiver thereof (not including railroad or other companies engaged in the ordinary transportation of merchandise and property in this Territory), shall be deemed to be an express company.

SEC. 2. Every such express company shall annually, between the 1st day of April and the 1st day of May, make and deliver to the Territorial Auditor, a statement, verified by the oath of the officer or agent making such report, showing the entire receipts for business done within this Territory of each agent of such company doing business in this territory for the year next preceding the 1st day of April, for and on account of such company, including its proportion of gross receipts for business done by such company in connection with other companies: *Provided*, That the amount which any express company actually pays to the railroads, stages, or other companies within this Territory for the transportation of their freight within this Territory may be deducted from the gross receipts of such company as above ascertained. *And provided further*, That said amount paid to the various railroad, stage or other companies for transportation shall be itemized, showing the amount paid to each railroad, stage or other company: *And provided further*, That nothing herein contained shall release such ex-

press companies from the assessment and taxation of their tangible property in the manner that other tangible property is assessed and taxed. Such company making statement of such receipts shall include as such all sums earned or charged for the business done within this Territory for such preceding year, whether actually received or not. Such statement shall contain an abstract of the amount received in each county and the total amount received for all the counties. In case of the failure or refusal of such express company to make statement before the 1st day of May, it shall then be the duty of each local agent of such express company within this Territory, annually, between the 1st day of May and the 1st day of June, to make out and forward to the State Auditor a similar verified statement of the gross receipts of his agency for the year then next preceding the 1st day of April. When such statement is made, such express companies shall, at the time of making the same, pay into the treasury of the Territory the sum of two dollars on each one hundred dollars of such receipts. And any such express company failing or refusing for more than thirty days after the 1st day of June in each year to render an accurate account of its receipts in the manner above provided, and to pay the required tax thereon, shall forfeit one hundred dollars for each additional day such statement and payment shall be delayed, to be recovered by an action in the name of the territory of New Mexico, on the relation of the Territorial Auditor, in any court of competent jurisdiction, and the Solicitor General shall conduct such prosecution; and such company, corporation or association so failing or refusing shall be prohibited from carrying on said business in this Territory until such payment is made. The Territorial Auditor is hereby ordered to deposit in the county treasury of each county half of the amount received as taxes from said express companies, taking as pro rata the business done in each county by said company to distribute said money. That the amount shall be distributed to the different funds as now provided by law.

SEC. 3. All laws in conflict with this act are hereby repealed. This act shall take effect and be in force from and after its passage.

CHAPTER LXXXIII.

AN ACT AUTHORIZING AND RESTRICTING THE ISSUE OF BONDS BY
COUNTIES FOR THE BUILDING OF COURT HOUSES, JAILS AND
BRIDGES. *H. B. 138; Approved February 26, 1891.*

CONTENTS.

- SECTION 1. Authorizes the issuing of bonds to the amount of four per cent of assessed valuation.
- SEC. 2. Denomination. Terms. Interest.
- SEC. 3. Bonds shall be ordered by a vote of the people.
- SEC. 4. County commissioners upon petition shall call an election to vote bonds. Proviso.
- SEC. 5. Such election shall be held and conducted as other elections.
- SEC. 6. Ballots, what to contain.
- SEC. 7. Qualified electors who are taxpayers entitled to vote.
- SEC. 8. Two counties separated by a stream may join in issuing bridge bonds.
- SEC. 9. Advertising for proposals. Specifications. Site. Letting contract.
- SEC. 10. Power conferred on county commissioners.
- SEC. 11. Book in which bonds shall be registered.
- SEC. 12. Sinking fund. Tax levy.
- SEC. 13. Interest money to be paid for that purpose only by the county treasurer.
- SEC. 14. Interest and sinking fund account to be kept separate. Payment of bonds. Cancellation.
- SEC. 15. Proceeds of bonds shall be used for the purpose voted. Penalty.
- SEC. 16. Failure to levy tax. Mandamus may issue to compel.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico:*

SECTION 1. That the boards of county commissioners in this Territory are hereby authorized and empowered to issue the bonds of such county, in any sum necessary not greater than four per cent, inclusive of all other bonded indebtedness, of the assessed value of the taxable property of said county, for the purpose of building court houses, jails and bridges.

SEC. 2. That the bonds hereby authorized to be issued shall be issued in denominations not less than one hundred dollars, and shall be payable at the office of the county treasurer in such county where the same have been issued, or at such place in the city of New York as the officers issuing the same may direct, and shall become due in twenty years and absolutely payable in thirty years from the date thereof, with interest at no greater rate than six per cent per annum, payable semi-annually in the months of January and July of each year, at the same place where the principal is made payable, and for which said interest on each bond shall have coupons attached. Such bonds in all cases shall bear

the seal of the county issuing the same, and shall be signed by the chairman of the board of county commissioners, and attested by the clerk of the county: *Provided*, That the first coupon on all such bonds shall be made payable on the first day of January of the year next succeeding the year such bonds are issued.

SEC. 3. That before any bonds shall be issued under this act, the same shall be ordered by a vote of the qualified electors of such county, city or town, in the same manner hereinafter provided.

SEC. 4. Whenever a petition signed by not less than two hundred qualified electors of any county in this Territory shall be presented to the board of county commissioners, asking that a vote be taken on the question or proposition of building a court house, or jail, or a bridge, setting forth in general terms the object of such petition and the amount of bonds asked to be voted for, it shall be the duty of the board of county commissioners of such county to which said petition may be presented, within ten days after the presentation, to call an election to be held within thirty days thereafter in such county, and shall give notice of such election by publication for at least three consecutive weeks in any newspaper published in such county, which notices shall set forth the time and place of holding such election, the court house, jail or bridge proposed to be built, and which bonds are to be voted for: *Provided*, That after the defeat of any proposition once voted for, a second special election, upon any question or proposition under the provisions of this act, shall not be held for a term of two years after such defeat.

SEC. 5. All such elections as herein provided for shall be held at the usual place of voting in such county, and shall be conducted by the officers or persons provided by law for the holding of ordinary or general elections in any such county, such election to be in all respects governed by, and the result declared according to, the rules and regulations provided by law for holding ordinary or general elections.

SEC. 6. The vote at all such elections shall be by ballot, on tickets or ballots having written or printed words, "For court house bonds," or "Against," any other work of improvement for which bonds are to be voted, as the case may be.

SEC. 7. All qualified electors under the laws of this Terri-

tory, who are property tax payers, shall be entitled to vote at all elections provided by this act.

SEC. 8. When any two counties are separated by a stream of water, and it is desired to bridge such stream, such counties may join in the construction of the same, and the county commissioners of the aforesaid counties shall determine the proportionate share of bonds to be issued by each, and each county shall bear its proportionate share and expense of cost of constructing and maintaining said bridge, and if the same be a toll bridge, shall receive a proportionate share of tolls collected therefrom: *Provided*, That each county shall vote separately on the issue of the bonds.

SEC. 9. If the majority of the legal votes cast at any such election herein provided for shall be in favor of the proposition voted for the issuing of bonds, then the county commissioners of such county, if the proposition be for the building of a court house or jail or bridge for which bonds were voted, shall without delay give notice in some newspaper of general circulation published in such county, not exceeding thirty days, that sealed proposals will be received until a certain hour in a certain day named in such notice, not to exceed thirty days thereafter, for the building of such court house, or jail, or bridge, as the case may be, which notice shall set forth the location of the proposed court house or jail or bridge with such particularity of details that an inspection of the premises may be had without difficulty.

Proposals for the building of any such court house or jail or bridge, if notices have not been given by the county commissioners of such county that such proposals shall be for the building of such court house or jail or bridge, in accordance with the plans and specifications on file in the possession of said county commissioners, such proposals shall be accompanied with complete plans and specifications of the same, the price to be charged therefor in the bonds of the county at par value, or for cash, together with a bond of undertaking, with good and sufficient security double the amount of the proposed cost thereof, conditioned for the faithful execution of the work proposed and the carrying into effect of any contract made in reference thereto. The board of county commissioners are hereby authorized to build court houses, jails and bridges, in the place designated

by the petitioners, if the majority of the voters so decide, and in no other place.

SEC. 10. The said county commissioners of any county are hereby fully authorized and empowered to enter into any and all contracts necessary to carry into effect the provisions of this act.

SEC. 11. The county commissioners of any county issuing such bonds shall make a registration thereof in a book to be kept for that purpose, showing the date, amount, number, maturity of such bonds, and if issued for the building of a court house or jail or a bridge, what bridge or other work of internal improvement.

SEC. 12. It shall be the duty of the board of county commissioners to ascertain from the assessment books of the county the amount of assessed taxable property in each county having issued bonds, and what percentage thereof is required to be levied to pay said amount, and when so ascertained, shall levy such percentage upon the taxable property of such county (to pay the interest and create a sinking fund for the final redemption of such bonds: *Provided*, That there shall be no levy made for the payment of the principal of such bonds until ten years after their issue) as may be responsible for such bonds, and shall place the same upon the tax books and lists of the county in a separate column or columns designating the purpose for which said tax is levied upon any particular county, and said tax shall be accordingly collected by the sheriff or collector of such county in the same manner that other taxes are collected.

SEC. 13. All taxes for interest on and for the redemption of such bonds shall be paid only in cash, and shall be kept by the county treasurer as a special fund, to be used for the payment of interest on and for the redemption of such bonds only.

SEC. 14. It shall be the duty of the county treasurer to keep the interest and sinking fund account of the county separate and distinct, and when there are sufficient funds in his hands to the credit of the redemption fund to pay in full the principal and interest of any such bonds issued under this act by any such county, to immediately call in and pay as many of such bonds, with accrued interest thereon, as such funds in hand will liquidate, as hereinbefore provided. Such bonds shall be paid in the order of their number, and when it is desired to redeem any of such bonds the county treasurer shall cause to be published for

thirty days in some newspaper at or nearest the county seat, a notice stating that certain county bonds by numbers and amounts will be paid on presentation, and that at the expiration of thirty days such bonds will cease to bear interest, and when any bonds or coupons issued under this act are redeemed, it shall be the duty of such treasurer to certify his action to the board of county commissioners, who shall cancel the bonds by punching holes through all the signatures of the bonds and coupons, so that they can be plainly identified, and cause record to be made of the same.

SEC. 15. All bonds issued under this act, or the proceeds thereof, shall not be used for any other purpose than that for which they were issued. Any officer who shall apply the same to any other purpose shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than double the amount of the bonds so misapplied, and imprisoned not less than one year: *Provided*, That the proceeds of such bonds may be applied for the redemption of the same.

SEC. 16. If for any cause the board of county commissioners or clerk thereof, or other authority of any county who is by law charged with the levying of taxes or placing the same upon the tax books, shall fail or neglect to make such levy or place the same in the tax books at the time herein provided, the holder or holders of any such bonds or coupons shall have the right by mandamus to compel the levy and collection of such taxes or the placing of the same on the said tax book. The writ of mandamus herein provided for may be granted either in term time or vacation, and the necessary jurisdiction for that purpose is hereby conferred.

SEC. 17. All laws or parts of laws in conflict with the provisions of this act are hereby repealed, and this act shall take effect from and after its passage.

CHAPTER LXXXIV.

AN ACT TO AMEND AN ACT PROHIBITING HOGS FROM RUNNING AT LARGE. *H. B. 156; Approved February 26, 1891.*

CONTENTS.

SECTION 1. Swine and burros prohibited from running at large. Liability for damages. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. No hog, swine or burro shall be permitted to run at large within the limits of any city, town or village of not less than four hundred inhabitants, and the owner of any hog, swine or burro trespassing on property of any person, shall be liable in treble the damages occasioned by such trespass and a fine of not less than five nor more than ten dollars for each offense.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed, and this act shall be in full force and effect from and after its passage.

CHAPTER LXXXV.

AN ACT TO AMEND CHAPTER 135 OF THE LAWS OF 1889, ENTITLED "AN ACT IN RELATION TO ELECTIONS AND TO AMEND CERTAIN SECTIONS OF THE COMPILED LAWS OF NEW MEXICO, RELATING TO ELECTION MATTERS." *H. B. 126; Approved February 26, 1891.*

CONTENTS.

SECTION 1-2. Ballots shall be printed on plain white paper, of a size named, without any outward mark or false heading. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Section 2, of Chapter 135 of the laws of 1889, entitled "An Act in relation to elections and to amend certain

sections of the Compiled Laws of New Mexico relating to election matters," is hereby amended so as to read as follows:

"Section 2. That hereafter all tickets or ballots used at any general election held in this Territory shall be printed on plain white paper, three inches in width and eight inches in length, or within one quarter of an inch of that size. No such ticket or ballot shall have any mark or number or designating device on the back so that its character may be known when folded. If such ticket shall have upon its face the mark, number or designating device provided by the first section of this act, such mark, number or device shall be printed at the head of the ticket or ballot, that may be printed in large black letters the character of such ticket or ballot, designating the political party or the particular question it is intended for, and then shall follow the name or names of the candidate or candidates and the office or offices for which they are candidates, or the question to be voted on. And it shall be unlawful for any person or persons to print or cause to be printed any ballot or ticket with any false designation, or having any false heading printed thereon, or any other ballot or ticket calculated or intended to deceive or mislead any voter. Any person violating any of the provisions of this section shall be punished, on conviction thereof before any court of competent jurisdiction, by a fine of not less than one hundred dollars and not more than five hundred dollars, or by imprisonment in the county jail not less than three months nor more than six months, or by both such fine and imprisonment, at the discretion of the court trying the same.

SEC. 3. That all laws and parts of laws in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER LXXXVI.

AN ACT RELATING TO COMMUNITY LAND GRANTS, AND FOR OTHER PURPOSES. *H. B. 48; Approved February 26, 1891.*

CONTENTS.

SECTION 1. The owners of any community grant may become a body corporate.

- SEC. 2. Any ten or more owners setting forth certain facts, may petition district court for such purposes.
- SEC. 3-4. Notice in Spanish and English to be given of the filing of such petition.
- SEC. 5. Notices shall be posted prior to hearing of application of petitioners.
- SEC. 6. Commissioners appointed to ascertain the sentiment of grant owners respecting incorporation.
- SEC. 7. The right of claimant to vote subject to challenge.
- SEC. 8. Vote shall be by ballot.
- SEC. 9. Election and return.
- SEC. 10. Two-thirds of qualified voters voting in the affirmative, the judge shall hear objections.
- SEC. 11. No objections being made, prayer of petitioners shall be granted.
- SEC. 12. Vote being less than two-thirds, prayer of petitioners shall be dismissed.
- SEC. 13. Powers of the corporation.
- SEC. 14. Trustees elected to exercise the corporate powers. Qualification.
- SEC. 15. A majority of trustees shall constitute a quorum.
- SEC. 16. Stated meetings. Qualification respecting certain powers. Resolution to sell.
- SEC. 17. Special meetings for purposes specified.
- SEC. 18. Election of officers. Rules. Minutes.
- SEC. 19. Sale, mortgage, lease or other disposition. When resolution to sell shall become final.
- SEC. 20. If dissatisfied with the resolution to sell under section 16, a majority may rescind before final action.
- SEC. 21. Trustees chosen every three years.
- SEC. 22. Judges of election.
- SEC. 23. Declaring the election and certifying. Term of office.
- SEC. 24. Filling vacancies.
- SEC. 25. All officers shall serve without pay, and shall not be interested in any contract with said corporation.
- SEC. 26. Trustees no power over land claimed in private ownership. Except, etc.
- SEC. 27. Suits in ejectment against adverse claimants or owners.
- SEC. 28. Suits in trespass.
- SEC. 29-30. Of titles to persons claiming in private ownership.
- SEC. 31. When money may be applied to public schools.
- SEC. 32. Disposition of land in good faith. Corporation shall be valid.
- SEC. 33. Fees of clerk of district court.
- SEC. 34. Meaning of the words, "owners" and "proprietors," defined.
- SEC. 35. Legal and equitable title to vest in the corporation.
- SEC. 36-38. Not applicable to any grant other than community, town or municipality.

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Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The owners or proprietors of any tract or grant of land in this Territory, ceded or granted by the governments of Mexico or Spain to any colony, community or town or to any person or persons, for the benefit of any town or colony community who shall within five years next after the passage of this act accept the benefits of the provisions of this act in the manner hereinafter designated, shall become a body corporate and politic, with all the powers hereinafter granted and for the purposes hereinafter mentioned, and shall have perpetual succession.

SEC. 2. Any ten or more of the owners and proprietors of any such land grant or real estate so held in common as a colony community or town grant, as aforesaid, may within five years from and after the passage of this act, and not afterwards, file in the office of the clerk of the district court of the county in which such land grant or real estate (or the greater part thereof, if the same be situate in two or more counties) is situate, a petition setting forth the names and places of residence of all persons claiming or owning any interest in the said land grant or real estate who are known to the petitioners, a description of the said land grant or real estate by metes and bounds according to an actual survey thereof, if the boundaries of such land grant have been definitely fixed by an actual survey, but if no such survey has been made by the proper authority, then such land grant may be described by any other description which will reasonably designate the land grant and the name by which it is commonly known in the vicinity of its location, and the nature and extent of the title under and by virtue of which such land grant or real estate is held and claimed, and praying that the owners and proprietors of such land grant or real estate may be created a body politic and corporate, under the provisions of this act.

SEC. 3. Upon the filing of such petition it shall be the duty of the clerk of the district court to cause to be printed notices to the owners and proprietors of the land grant or real estate described in said petition, which said notice shall describe the said land grant or real estate by the name by which it is commonly known in the vicinity of its location, setting forth the filing and object of such petition, the name of the petitioners, and that on a day and at a place to be named in said notice an application will be made to the judge of said district court to grant the prayer of such petition.

SEC. 4. Two copies of the notices provided for in the foregoing section, one in Spanish and one in the English language, shall be forthwith mailed by the clerk of the district court to each of the persons named in said petition as owning or claiming any interest in the said land grant, to the post office nearest to the place of residence of such person as alleged in the said petition, providing that it shall not be necessary to mail any copy of such notice to any person who shall join in such petition as a petitioner.

SEC. 5. Five copies of such notice in the English language and five copies of the same in the Spanish language shall be posted in public and conspicuous places on the said land grant or real estate for at least sixty days next before the application shall be made to the judge of the district court to grant the prayer of the said petition, and no such application shall be heard by any such district judge until there shall be filed in the record satisfactory evidence of such posting.

SEC. 6. Within thirty days after the filing of such petition, if it shall satisfactorily appear to the judge of the district court that the notices have been mailed as required by section 4 of this act, and that the notices remain posted upon the land grant or real estate as required by section 5 of this act, it shall be the duty of the judge of the district court, upon request of the petitioners, to appoint three well qualified householders, residing upon and having an interest in the said land grant or real estate, to hold an election by the persons owning and claiming to own an interest in the said land grant or real estate, to ascertain how many of such persons are in favor of the granting of the prayer of such petition, and how many are opposed thereto.

SEC. 7. Every person owning or claiming to own any interest in the said land grant or real estate shall be entitled to vote at the said election: *Provided*, That if the right of any such person to so vote be challenged at the time the vote is taken, and a memorandum of such challenge is made at the time upon the poll book, and it shall appear upon the hearing before the judge of the district court that the allowance or disallowance of such challenges all taken together, may affect the result of any such election, it shall be incumbent upon every person whose vote is so challenged to prove that at the time of such election he was the owner of some interest in such land grant or real estate, and in default of such proof it shall be the duty of such judge to reject such vote.

SEC. 8. The vote at any such election shall be cast by ballot, and it shall be the duty of each person casting a ballot to write his name on the back of such ballot: *Provided*, That if the voter is unable to write, his name may be written by another, if attested by two witnesses who shall each sign as witnesses on such ballot.

SEC. 9. It shall be the duty of the persons so appointed by the judge of the district court to hold an election at some cen-

tral and convenient point on the said land grant or real estate, for the purposes of this act, and to give notice of the time and place of such election by posting notices thereof in both the English and Spanish languages, for at least thirty days, in five public and conspicuous places on said land grant or real estate, and to certify the result of such election to the judge of the district court within five days after the holding of such election; such persons shall also return to the clerk of the district court the original poll book and all ballots cast at any such election.

SEC. 10. If it shall appear by the certificate of the persons appointed to hold such election that two-thirds of all voters voting at such election voted in favor of granting the prayer of the petition, the judge of the district court shall, on the day named in the notice issued by the clerk of said court, proceed to hear any objections that may be interposed in writing by any person to the fairness of such election, or the right of any person voting to vote thereat, and shall continue such hearing from day to day and from time to time until the same is completed.

SEC. 11. If no objections be made on the day of such hearing, or if the objections made are found by the judge of the district court to be not well taken, and it appear that two-thirds or more of the qualified voters voting at such election voted in favor of the granting of the prayer of said petition, the judge of the district court shall enter up a decree granting such prayer, and setting forth that the petitioners and their associates and successors are by the said decree created a body politic and corporate under a name to be therein stated.

SEC. 12. If less than two-thirds of the qualified voters voting at any such election shall have voted in favor of the granting of the prayer of such petition, the same shall be dismissed at the cost of the petitioners.

SEC. 13. Upon the entry of the decree of the district court granting the prayer of any such petition, the petitioners, their associates and successors, shall thereby be and become a body corporate and politic, under the name designated in the said decree, and shall have and possess the following powers:

First. To sue and to be sued in their corporate name.

Second. To sell, convey, lease, mortgage or otherwise dispose of so much of the land grant or real estate described in the said petition as is held in common by the owners and proprietors.

Third. To make such rules and regulations not in conflict with the constitution and laws of the United States or the laws of this Territory as may be necessary to the protection and improvement of such common lands and real estate and the use and enjoyment thereof, and of the common waters thereon.

Fourth. To assess against the owners and proprietors thereof such taxes and other assessments as may be necessary to defray the expenses of conducting the business of said corporation and to enforce the payment thereof by such owners and proprietors.

Fifth. To have a common seal and to alter and amend the same at pleasure.

Sixth. To determine the number of animals that may be permitted to graze upon the common lands aforesaid, and the price which shall be paid by any owner or proprietor for the privilege of grazing thereon: *Provided*, Such price shall be uniform as to all owners and proprietors.

SEC. 14. The corporate powers of such corporation shall be exercised by a board of nine trustees, who shall be owners and proprietors, reside upon the land grant or real estate, and be heads of families. Such board of trustees shall be elected by the owners and proprietors of such land grant or real estate, and the first election for members of such board of trustees shall be held within sixty days after the entry of such decree, by the persons appointed by the district judge to hold the election provided for in section 9 of this act, who shall give notice of such election in the same manner as is provided in said section for the notice of election therein referred to: *Provided*, That if any one of such persons shall be for any reason disqualified or shall refuse to act, the remaining two may hold such election, and if two or more of such persons shall be for any reason disqualified or refuse to act, the judge of the district court shall designate other qualified persons to act in their stead: *And provided further*, That the persons receiving the highest number of votes at such first election shall respectively hold their offices until the election and qualification of their successors, as hereinafter provided.

SEC. 15. A majority of such board of trustees and of their successors shall constitute a quorum for the transaction of business, and the corporation shall be in all respects bound by the acts of the majority of its board of trustees, done in pursuance of the provisions of this act, within the scope thereof.

SEC. 16. The board of trustees of every corporation created under the provisions of this act shall hold four meetings in each and every year, on the first Saturdays in the months of January, April, July and October, for the transaction of all business of the corporation, of which meetings all persons shall be required to take notice; but the corporation shall not be bound by any sale, mortgage, conveyance, lease or other disposition of its common property, unless the same be made and executed in pursuance of a resolution of such board passed by the affirmative vote of all of the members present at any of the stated meetings of said board, and duly entered upon the record of such meetings and attested by the president of said board.

SEC. 17. The said board of trustees may hold special sessions at such times as the business of the corporation shall render necessary, but at such special meetings the only business transacted shall be such as may be necessary to protect said land grant or real estate from trespassers, the levying of taxes or other assessments for special purposes, and such other business as shall relate only to the general routine of the corporation, and shall not dispose in any way of any part of the said common lands.

SEC. 18. Each board of trustees elected under the provisions of this act shall, at the first meeting held after such election, select one of its members to be president of said board, and another of its members to be secretary and treasurer thereof, and shall adopt rules for the government of such corporation and the use of the common lands of such corporation and the common waters thereon; and such rules so adopted shall be uniform as to all the inhabitants thereon. The secretary shall reduce to writing, in a book to be kept for that purpose, minutes of the business transacted at each special meeting of the board.

SEC. 19. No sale, mortgage, lease, or other disposition of the common property of any corporation created under the provisions of this act, shall take effect or become operative until the regular meeting of the board of trustees held next after the meeting at which the resolution authorizing the sale is passed, as provided by section 16 of this act, at which time, if such resolution is not objected to in writing, as provided in the next succeeding section of this act, it shall be the duty of the president and secretary of such board of trustees, in the name of and

under the seal of such corporation, to execute all necessary documents to carry the same into effect, and such documents when so executed shall operate to bind all persons interested in such common property to the same extent as if each of such persons had separately signed, sealed and executed the same.

SEC. 20. Every person interested in the common lands of such corporation who shall be dissatisfied with any sale, mortgage, lease or other disposition of any such common property so made by any such board of trustees, may, on or before the regular meeting of such board of trustees held next after the meeting at which any resolution for any such sale, mortgage, lease or other disposition shall have been passed, file with such board of trustees a protest in writing against the carrying out of such resolution, and if a majority of the parties in interest shall so file a written protest against such action within the time aforesaid, such resolution shall be rescinded by such board of trustees and become void and of no effect.

SEC. 21. On the first Saturday in December next after rendition of any decree as provided for in this act, and every three years thereafter, there shall be chosen by ballot, by the owners and proprietors of such common lands, a board of trustees, having the qualifications and possessing the powers provided for in this act.

SEC. 22. The election provided for in section 21 of this act shall be held by three persons having all the qualifications prescribed by section 6 of this act for the persons appointed to hold the first election provided for in this act. Such persons shall be appointed by the justice of the peace of the precinct in which such land grant or real estate is situate; if such land grant or real estate shall be situate in more than one precinct, then such persons shall be appointed by the justices of the peace of the several precincts in which such land grant or real estate is situate: *Provided, however,* That if such justices of the peace can not agree upon the persons to be appointed, such justices of the peace, or a majority of them if there be more than two, shall hold such election and certify the results thereof.

SEC. 23. The nine persons receiving the highest number of legal votes cast at any such election for trustees shall be declared elected, and shall receive from the persons holding such election, a certificate of election which shall authorize them respectively to discharge the duties of such board of trustees for

the term of three years and until the election and qualification of their successors.

SEC. 24. If a vacancy shall occur in any such board of trustees, the qualified members thereof remaining shall fill such vacancy by appointment, to be made at the regular meeting of such board, and the person or persons so appointed shall hold their office until the next general election for members of such board and until the election and qualification of a successor or successors.

SEC. 25. All officers of any corporation created under this act shall serve without pay or emolument of any kind, and no officer during his term of office shall make any contract with or be interested in any contract made with such corporation.

SEC. 26. The board of trustees of any corporation created under this act shall have no power or control over the lands within the exterior boundaries of any such grant which are held or claimed in private ownership, except hereinafter provided.

SEC. 27. If any person or persons shall hold in possession or claim in private ownership within the exterior boundaries of any such land grant or real estate, any tract, piece or parcel, or any tracts, pieces or parcels of land, when in the opinion of any such board of trustees such person or persons had no right to hold the same, such board of trustees may institute in the name of the corporation an action of ejectment against such person or persons, and if upon the trial of any such action, it shall appear that the possession or claim of any such person or persons is without right, judgment shall be entered in favor of such corporation for the possession of such tract, piece or parcel of land, and for such damages as may be proven to have been sustained by such corporation by the wrongful detention thereof.

SEC. 28. The several courts of this Territory exercising chancery jurisdiction shall, under the practice of courts of chancery, entertain bills of complaint, filed by any such board of trustees to prevent trespassers upon the common lands and common waters of any such corporation, if it shall appear that the complainants are without a plain, speedy and adequate remedy at law, or that the persons committing such trespasses are insolvent or unable to respond in damages to such corporation for the injury alleged.

SEC. 29. Any person or persons who have not an unquestioned paper title holding or claiming in private ownership any

tract or tracts, piece or pieces, parcel or parcels of land within the exterior boundaries of any such land grant or real estate may, within two years after the election of the first board of trustees of any corporation created under the provisions of this act, file with such board of trustees a petition in writing, setting forth a description of such land according to an actual survey thereof, and the nature and source of his title, and praying that such land may be conveyed and confirmed to him by such board of trustees, and thereupon it shall be the duty of such board of trustees to examine such petition, and the evidence offered in support thereof, and if the claim or claims of such person or persons shall, in the opinion of the majority of such board of trustees be sustained by the evidence, such board of trustees shall immediately convey to such person or persons and his or their heirs and assigns the land described in such petition, or so much thereof as is shown by the evidence to belong to such person or persons: *Provided, however,* That if such board of trustees shall fail or refuse for any reason to make such conveyance, such person or persons shall have the right to file in the district court of the proper county a bill of complaint in chancery against such corporation, praying that such board of trustees shall be compelled to convey and confirm to such person and his heirs and assigns the property so claimed and held in private ownership, and if upon the hearing of such cause it shall appear that such person or his grantors is entitled, under the law, usage or custom of Spain, Mexico, the Territory of New Mexico or the United States, to such land, a decree shall be entered in such cause requiring such board of trustees to convey and confirm the same to such person, his heirs and assigns.

SEC. 30. Any conveyance made in pursuance of the provisions of this act shall operate to conclude [include] all persons claiming the lands described therein by, through or under the original title upon which the owners or proprietors of any such land grant or real estate base their claim thereto.

SEC. 31. The moneys arising from the sale, lease or other disposition of the common land of any such corporation, after defraying the expenses of such corporation, may be by the board of trustees of any such corporation applied to the support and maintenance of free, non-sectarian public schools within the limits of any such land grant or real estate. *p66 this bk 2158 C257*

SEC. 32. Nothing contained in this act shall be construed

as in any manner affecting any sale, mortgage, conveyance, lease or other disposition of any common lands heretofore made by any person or persons claiming or pretending to act on behalf of any owners or proprietors of any common lands within this Territory, but all such sales, mortgages, leases and other disposition of any such common lands shall be construed and acted upon as if this act had never been passed: *Provided, however,* That any body of persons heretofore claiming to exercise corporate powers in the disposition of common lands of the character described in this act may perfect their organization under the terms and provisions of this act, and after the entry of a decree by the district court creating such corporation, all acts done in good faith by such persons under pretense of such corporate authority before the passage of this act, shall thereby be and become valid and binding upon such corporation in all respects, as if the same had been done and performed in strict accordance with this act.

SEC. 33. The clerk of the district court shall receive, for all services required to be performed by him under the provisions of the first twelve sections of this act, the actual cost of the printing, stationery and postage necessary to be expended by him under the provisions of said sections, and the further sum or ten dollars, and no more, all of which shall be paid at the time of filing such petition by the petitioners; for all services rendered in any action or proceeding by the clerk of the district court under the provisions of sections 27, 28 and 29 of this act, such clerk shall be entitled to demand and receive five dollars, and no more, to be paid at the time of the institution of such action or proceedings by the party instituting the same.

SEC. 34. That whenever the words, "owners" and "proprietors," or equivalent expressions occur in the foregoing act, they shall in all cases be construed to mean the members of the colony community or town to which said grant was originally made, or their successors, including all persons residing within the exterior boundaries of such grant, and who shall have been in occupation and adverse possession of any part or portion of said grant for a period of not less than two years prior to the passage of this act, and all persons who shall have improved any portion on [of] said grant and paid taxes on the same for two years prior to the passage of this act.

SEC. 35. That in all cases when the judge of the district

court shall by his decree create a body politic and corporate under the provisions of this act, such action shall be final and conclusive and shall operate to vest in the said corporation and body politic the legal and equitable title to all the land within the exterior boundaries of such grant to which such town or colony community is entitled at the time of the passage of this act, and such corporation shall have full power and authority to obtain and hold all evidences of title to such lands, and manage and dispose of any and all of such lands in accordance with the foregoing provisions of this act.

SEC. 36. This act shall not be held or construed to affect any grant of land which is not strictly a colony community grant or a grant to a town or municipal corporation, and when there shall arise the question as to whether the grant which it may be claimed comes under the provisions, does so or not, such question shall be decided by the district court, subject to review in the Supreme Court in an appropriate proceeding, and no proceedings under the provisions of this act shall be held or construed to affect any grant of land or part or portion thereof where the same was made to an individual or individuals in his or their individual right, or where the same has been confirmed or patent issued for the same to any individual or individuals or his or their heirs or assigns or any or all of them.

SEC. 37. Where the words, "common property" or "common lands," are used or mentioned in this act, or where property or land is herein referred to as held or owned in common, or words of the same import are used in this act, they shall be construed and held to be, mean and intend only such lands as have been granted heretofore to a colony, community or town, and which under the terms of this act shall be vested in a corporation hereby authorized to be formed; but when any real property may be held or claimed to be held by any individual or individuals in trust, expressed or implied, for the use or benefit of any colony community or town, such fact shall not prevent the organization of a corporation under this act, but such corporation may be formed and organized on such facts being made to appear to the district judge or district court, and such corporation shall then be authorized to commence proceedings in the district court to have such trust declared, and divested, and such property or land decreed to be held by the corporation, free and discharged from such trust, and the court shall be authorized

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to enter such decree if justified by the law and facts of the case.

SEC. 38. This act shall apply to all grants of land, except those grants which were made to the petitioners for the same for the exclusive use of such petitioners, their heirs and assigns.

SEC. 39. This act shall take effect and be in force from and after its passage.

CHAPTER LXXXVII.

AN ACT TO AMEND SECTION 38 OF AN ACT OF THE 29TH LEGISLATIVE ASSEMBLY OF THE TERRITORY OF NEW MEXICO, ENTITLED "AN ACT RELATING TO COMMUNITY LAND GRANTS, AND FOR OTHER PURPOSES." *H. B. 200; Approved February 26, 1891.*

CONTENTS.

SECTION 1. Incorporation shall extend only to grants made to a pueblo or colony for public use.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 38 of an act of the 29th Legislative Assembly of the Territory of New Mexico, entitled "An Act relating to community land grants, and for other purposes," be and the same is hereby repealed, and the following is hereby substituted therefor:

"Section 38. This act shall not operate to divest any private rights or affect any private titles, but shall extend only to land grants made to a pueblo or colony or for the public use of a community."

SEC. 2. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall be in force and take effect from and after its passage.

See 2-9 34 32 CHAPTER LXXXVIII.

44 AN ACT CREATING THE COUNTY OF GUADALUPE OUT OF A PORTION OF THE COUNTY OF SAN MIGUEL. *H. B. 121; Presented by the Chief Clerk of the Council as having passed, the Governor's veto to the contrary notwithstanding, and filed in the Secretary's office February 26, 1891.*

CONTENTS.

- SECTION 1. Boundaries of Guadalupe county defined.
- SEC. 2. What shall remain San Miguel county defined.
- SEC. 3. Puerto de Luna the county seat. Court house.
- SEC. 4. Officers to be elected who shall enter upon their duties January 1, 1893. Until then shall remain in San Miguel.
- SEC. 5. Commissioners designated who shall proceed to the erection of a court house and jail at an expense not exceeding \$30,000. Plans. Specifications, etc.
- SEC. 6. Court house bonds. Terms. Interest.
- SEC. 7. Two commissioners to ascertain and make equitable apportionment of county indebtedness.
- SEC. 8. Appointing a third commissioner and an expert accountant. Compensation.
- SEC. 9. Until January 1, 1893, San Miguel county shall remain as now constituted.
- SEC. 10. The county of Guadalupe shall be entitled to one representative, and in conjunction with San Miguel elect a member of the council.
- SEC. 11. Shall form part of the fourth judicial district. After January 1, 1893, district court shall be held in the county.
- SEC. 12. Precinct boundaries remain.
- SEC. 13. Commission shall have supervision of the construction of county buildings. Compensation.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That all that portion of land of the county of San Miguel, and Territory of New Mexico, included within the boundaries hereinafter described shall form and constitute a new county, which county shall be known as the county of Guadalupe, in the Territory of New Mexico, to wit: Commencing at the southeast corner of township number 2 north, of range number 37 east, on the line between the Territory of New Mexico and the State of Texas, and running north on the line between New Mexico and Texas, to the northeast corner of township number 11 north, of range 37 east, thence westerly between townships 11 and 12 north, to the northwest corner of township number 11 north, of range 16 east; thence south between ranges 15 and 16 east, to the southeast corner of township 9 north, of range 15 east; thence east between townships

8 and 9 north, to the northeast corner of township number 8 north, of range 18 east; thence south on line between ranges 18 and 19 east, to the southeast corner of township number 5 north, of range 18 east; thence west to the northeast corner of township number 4 north, of range 18 east; thence south between ranges 18 and 19 east, to the northeast corner of township number 1 north, of range 18 east; thence easterly between ranges 1 and 2 north to the southeast corner of township number 2 north, of range 37 east and place of beginning.

*For more particular description to [of] the boundaries of said county of Guadalupe, reference is made to the map herewith annexed, which shall constitute part of this act.

SEC. 2. That all that portion of the county of San Miguel north and west of the descriptive line in the preceding section be and remain in the county of San Miguel.

SEC. 3. The county seat of the county of Guadalupe shall be established at the town of Puerto de Luna, in said county, and the board of commissioners provided by this act shall select and designate the most proper and convenient place for the erection of the public buildings of the county of Guadalupe.

SEC. 4. The officers of the county of Guadalupe shall be elected at the general election to be held in the year 1892 for the purpose of electing officers in the several counties in the Territory, and the several officers elected shall qualify and enter upon the discharge of their respective duties on the 1st of January, 1893, and until that date the territory included in the county of Guadalupe, as constituted by this act, shall be and remain in the county of San Miguel for all judicial purposes; and furthermore that all taxes assessed and collected in the territory included in the county of Guadalupe until the 30th day of December, 1892, shall ingress to the treasury of the county of San Miguel: *And provided further*, That all expenses incurred in the election to be held in the territory included within the county of Guadalupe, for the election of officers of said county of Guadalupe, shall be paid by the county of San Miguel, and that the commissioners of the county of San Miguel, in proper time, shall issue their proclamation for the election to be held in the county of Guadalupe in 1892.

SEC. 5. That Messrs. Roman Dodge, Matilde Chavez and

*No map was annexed to original enrolled bill when the same was filed in the office of the Secretary of the Territory.

Placido Baca y Baca, from the county of Guadalupe, are hereby appointed and empowered as a board of commissioners, that as soon as practicable after the passage of this act shall meet and select one of their number as president, and another as secretary of such commission, that such commission thereafter shall publish a notice for not less than one month calling for plans and specifications and bids for the erection of a court house and jail of said county, and thereafter shall adopt plans and specifications for the construction of such county buildings, and shall contract with the lowest bidder, if in their opinion it should be better for the erection of such county buildings, at a cost not exceeding the sum of thirty thousand dollars; said buildings shall be received by the contractors and be paid for by the said commissioners in bonds of the county of Guadalupe, as provided by this act, in the month of January, 1893, or as soon thereafter as the board of commissioners are satisfied of the faithful compliance of [with] the contract by the contractors; said commission, through its president and secretary, shall keep a complete record of all their proceedings, in conformity with this section, and at the first meeting of the county commissioners of the county of Guadalupe, in the year 1893, deliver said record to the board of county commissioners, which shall be filed and kept among the records of said county as a part of the records of the same: *Provided*, That if said commission, created by this section, shall consider more convenient and economical to erect said county buildings in any other manner than by contract, they are hereby authorized to do so.

SEC. 6. The county commissioners of the county of Guadalupe, for the purpose of raising funds for the erection of a county court house and jail for said county, are hereby authorized and empowered to issue bonds of said county not exceeding the sum of thirty thousand dollars, for the period of twenty years, but payable at the option of said county after the expiration of ten years from the date of the issuance of said bonds, to be in the usual form, and in the sum of one hundred dollars each, bearing interest at the rate of six per cent per annum until paid, the interest to be paid semi-annually; said board of commissioners are hereby required that annually, when other taxes are levied and collected, to levy and cause to be collected a tax upon the assessed property of said county sufficient to pay the interest and such portion of the principal as may be necessary for

the payment of said bonds at maturity, or before if it should appear to be proper to do so; interest coupons should be attached to said bonds.

SEC. 7. It shall be the duty of the county commissioners of the county of San Miguel, immediately after the passage and approval of this act, to appoint two persons of well known capacity, honesty and integrity, one from the county of San Miguel, and the other from the county of Guadalupe, as a committee to examine what is the actual debt of the county of San Miguel, to appraise said public buildings and other public improvements within the county of San Miguel, and also those within the county of Guadalupe, to count the actual cash in the treasury of the county, if any there be, and after having made a general estimation of the value of said buildings and public improvements and cash on hand in the treasury of the county to deduct such sum of the general debt of the county, if such sum of appraisement of buildings and cash in hand in the county of San Miguel should be less than the sum of the general debt, then the balance resulting from the general debt and fund, what proportion of such debt on hand should be charged to the county of Guadalupe in conformity with the assessment made in the territory included in the county of Guadalupe in the year 1890: *Provided*, That if the sum of the appraisement of the buildings and public improvements which remain within the county of San Miguel equals or exceeds the sum of the actual debt of the county of San Miguel, then and in that case the county of Guadalupe shall be free from paying any proportion of the debt of the county of San Miguel until the 31st day of December, 1890: *And provided further*, That the territory included within the limits of the county of Guadalupe shall in no way be responsible for any debt or part of a debt created or contracted by the county of San Miguel from and after the 31st day of December, 1890.

SEC. 8. The persons appointed by the county commissioners of the county of San Miguel, in conformity with the foregoing section, are hereby authorized to select and designate a third party to act with them and decide any question in which the two commissioners aforesaid can not agree; said commissioners shall also have a right and are hereby authorized to appoint an expert person to act as secretary to said committee; and said two commissioners, the third selected by them, and the

clerk shall be entitled to a compensation of five dollars each one, to be paid by the county of San Miguel, for each day actually employed in the matter herein commended to them, said pay to be ordered by the commissioners of the county of San Miguel, under a sworn account of said commissioners, the third and the clerk, and paid by the treasurer of said county of San Miguel out of any funds in the treasury of said county not otherwise appropriated.

SEC. 9. Until the 1st day of January, 1893, the county of San Miguel shall remain as now constituted, and the present officers of the county shall exercise all the functions of their several offices, and shall receive the pay and emoluments of the same, and shall not be affected by this act in no [any] manner whatever.

SEC. 10. The county of Guadalupe shall form a senatorial and representative district in conjunction with the county of San Miguel, and shall have the right to elect, at the general election in 1892, a member of the Legislative Council in conjunction with the county of San Miguel, and shall elect by itself a representative to the House of Representatives of the Territory of New Mexico. This section shall be in force until the Legislative Assembly make a new apportionment.

SEC. 11. For judicial purposes the county of Guadalupe hereafter shall form a part of the fourth judicial district of the Territory of New Mexico, and the district courts in said county of Guadalupe after the 1st day of January, 1893, shall commence and be held at the county seat of said county of Guadalupe at such times as the presiding judge in the fourth district shall determine, and until the terms of the courts be otherwise fixed by law.

SEC. 12. The several precincts as they exist in the county of San Miguel and within the territory included within the limits of the county of Guadalupe in 1892, shall remain and be the precincts in the county of Guadalupe for the election of 1892 for all the county officers to be voted for in said county, and thenceforward until the same may be changed by legal authority.

SEC. 13. The commissioners appointed by section five (5) of this act are hereby required to have the general supervision of the construction and erection of the county buildings, and shall receive, as full compensation for each day actually employed in the discharge of their duties, the sum of four dollars

and mileage at five cents a mile for going and returning from their residence to the place of meeting, to be paid out of the funds appropriated for that purpose. The majority of said board of commissioners shall have the power to decide in all questions, and their decision shall be final.

SEC. 14. This act shall be in force and effect from and after its passage, and every act and part of act inconsistent with the provisions of this act are hereby repealed.

CHAPTER LXXXIX.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT, CHANGE, MAINTENANCE AND CONTROL OF ROADS AND HIGHWAYS IN THE TERRITORY OF NEW MEXICO. *C. B. 66; Approved February 26, 1891. L. 89 p. 125, 290*

CONTENTS.

- SECTION 1. Power vested in board of county commissioners.
- SEC. 2. Right of way. Width of highway.
- SEC. 3. Alteration or discontinuance.
- SEC. 4. Commissioners relative to road labor. Notice to road supervisors.
- SEC. 5. Able bodied residents between ages of twenty-one and ~~thirty~~ ^{thirty-five} subject to road labor or payment of a per diem.
- SEC. 6. Supervisors to give notice. Tools. Teams.
- SEC. 7. Commissioners shall appoint, direct and control supervisors of roads. Election of supervisors. Bonds. Compensation.
- SEC. 8. Supervisors of roads shall file reports of facts specified.
- SEC. 9. Failing to perform duties required shall forfeit fifty dollars.
- SEC. 10. Notified of needful repairs, and failure to make same, supervisors of roads liable for damages.
- SEC. 11. Extraordinary repairs, and labor to be called out to make such repairs.
- SEC. 12. Removal of obstructions, and of fences upon notice. Penalty for obstructing of highways.
- SEC. 13. Duty to keep roads in as good repair as labor and funds at disposal will permit. Guide boards.
- SEC. 14. Public roads shall be established, changed or discontinued by county commissioners upon petition and notice.
- SEC. 15. Contents of notice.
- SEC. 16. Petitions, number of signatures. Money deposit. Commissioner to examine and report. Oath. Compensation.
- SEC. 17. Duty of examining commissioner. Adverse report.
- SEC. 18. Filing of report. If favorable, claimants for damages.
- SEC. 19. Commission to appraise damages. Appraisers' oath. Report. Compensation.
- SEC. 20. No damages being awarded, costs shall be paid by claimant.
- SEC. 21. County commissioners shall fix a day for final hearing. Provision respecting established roads.

- SEC. 22. Order establishing road entered. Plat and field notes. Building road, etc.
- SEC. 23. Roads may be changed, established or discontinued by county commissioners upon written consent filed of all land owners.
- SEC. 24. Road exceeding ten miles in length, expense of survey shall be paid by county.
- SEC. 25. Of roads along or across county lines.
- SEC. 26. Of streets or highways in municipal incorporations. This act shall not apply, except, etc.
- SEC. 27. Decisions of county commissioners as to damages subject to appeal to district court. Costs.
- SEC. 28. County tax authorized for roads. How expended.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The board of county commissioners in the Territory of New Mexico shall have the control and management of all the roads and highways in their respective counties, with power to establish, change, and maintain the same as herein provided, and to see that the laws in relation to them are carried into effect.

SEC. 2. The right of way of county and Territorial roads hereafter established must be not less than forty feet wide nor more than eighty feet, but any road already established may be made wider. County bridges are parts of public highways and must not be less than sixteen feet in width: *Provided*, That when practicable the county commissioners shall declare all township and section lines public highways of not less than forty feet in width, and where there is no improvement, no compensation shall be paid for such highways.

SEC. 3. A county or public road may, within the limits aforesaid, be increased or diminished in width, or may be altered in direction, or discontinued, by pursuing substantially the steps herein prescribed for opening or establishing a new road.

SEC. 4. It shall be the duty of the boards of commissioners at their regular January meeting of each year to fix and determine the number of days of labor that shall be expended upon the roads of their respective counties for the current year, which shall not be less than two nor more than five days for every man subject to road labor, and they shall cause an order of the same to be entered upon the records of their office and shall immediately thereafter notify the supervisor of roads in the various precincts of their respective counties of the order issued by them, a copy of which order shall accompany the notice to said supervisor, and such board shall assign all persons liable to work on the public roads to some road, in such manner as to

make a fair and equitable division of such laborers, and that the said board of commissioners shall assign said laborers to work on roads as near to their houses as practicable. That in no case shall a person be compelled to work on roads at a distance of more than ten miles from his residence.

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SEC. 5. Hereafter in this Territory all the able bodied male residents between the ages of twenty one and fifty five, except persons residing within the limits of incorporated towns and villages, shall be required to perform labor upon the public highway, as herein provided: *Provided, however,* Those subject to road tax or labor may pay in lieu of said labor one dollar a day for each day in which he was liable to road labor.

SEC. 6. The supervisor shall be required to give at least three days notice previous to the day or days designated to work the road to all persons in his district subject to work what day he will superintend the work on the roads within his precinct, and all persons so notified must meet said supervisor at such time and place and with such tools, implements and teams as said supervisor may designate, and shall labor diligently under the direction of said supervisor for eight hours each day, and for such number of days of labor performed the supervisor shall give to the person a certificate, which certificate shall be evidence that such person has performed labor on the public highways as required by law, and shall be a receipt to the person for the payment of road labor due for that year: *Provided further,* Every person owning a team of horses, mules or oxen shall be required to work one day with such team, in such manner as directed by the supervisor, or pay three dollars in lieu thereof.

SEC. 7. After the passage of this act, the county commissioners shall appoint in each of the precincts of their respective counties, a supervisor of roads, who under the direction and control of the board of commissioners shall superintend and manage the road work in their respective precincts, and hereafter at each general election held in this Territory there shall be elected a supervisor of roads for each precinct, who shall be a qualified elector and not exempt from road tax or labor. Each supervisor so elected or appointed as herein provided, before entering upon the duties of his office, shall give bond in such sum and with such security as the commissioners may deem requisite, conditioned that he will faithfully and impartially perform all the duties devolving upon him and appropriate all mo-

neys that may come into his hands by virtue of his office according to law, which bond shall be filed in the office of the probate clerk. The supervisor shall receive a compensation for his labors in connection with road work, including the time necessarily spent in notifying parties in regard to said work and making out his returns, two dollars a day for each day so spent: *Provided, however*, that not more than twenty days shall be spent in such labor in any one year. He shall be liable to road labor as other persons are liable under this act.

SEC. 8. It shall be the duty of the supervisor of roads, by the first of December of each year, to file with the probate clerk of each county in this Territory a report which shall embrace the following items:

1. The names of all persons in his precinct required to perform labor on the public highway, and the amount performed by each.

2. The names of all persons who have performed their road labor, and the names of all persons who have paid money in lieu of labor.

3. The amount of all moneys coming into his hands by virtue of his office, and from what sources.

4. The manner in which the money coming into his hands by virtue of his office has been expended, and the amount, if any, in his possession.

5. The number of days he has been faithfully employed in the discharge of his duties:

6. The condition of the roads in his precinct and bridges and such other items and suggestions as said supervisor may wish to make, which may inform the commissioners as to their duties in reference to public roads; which report shall be signed and sworn to by said supervisor and filed by the probate clerk among the papers of his office.

SEC. 9. Any supervisor failing or neglecting to perform the several duties required by this act shall forfeit and pay for the use of the road fund in his precinct the sum of fifty dollars, and it is hereby made the duty of the probate clerk, in case of such failure or neglect, to commence suit in his name for the collection of the same before any justice of the peace within the proper precinct.

SEC. 10. When notified in writing by any person that any bridge or other portion of a public road is unsafe or impassable;

the supervisor thus notified shall be liable for all damages resulting from the unsafe or impassable condition of the road or bridge, after allowing a reasonable time for repairing the same.

SEC. 11. For making such extraordinary repairs the supervisor may call out any or all the able bodied men of his precinct in which they are to be made, but not more than two days at any one time without their consent, and persons so called out shall be entitled to receive a certificate from the supervisor, certifying the number of days of labor performed, which certificate shall be received for road labor for that or any succeeding year at the rate per day established for that year.

SEC. 12. It is the duty of the supervisor to remove obstructions on the public highways caused by fences or otherwise, but he must not throw down or remove fences which do not directly obstruct the travel upon the highway, until not to exceed six months notice has been given to the owner of the land inclosed in part by such fence: *Provided*, That any person or persons who shall fence or otherwise obstruct a public road in this Territory shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount not to exceed one hundred dollars nor less than twenty.

SEC. 13. It shall be the duty of the supervisor to keep the roads in as good a condition as the funds and labor at his disposal will permit, and to place guide boards at the forks of the roads in his precinct and wherever it may in his judgment be deemed necessary for the convenience of public travel, and for which guide boards and their erection he shall pay out of whatever funds belonging to the road in his precinct which he may have.

SEC. 14. All public roads in this Territory shall be established, changed, altered or discontinued upon petition to the board of county commissioners. Previous to the presentation of a petition for the above purposes, four weeks notice thereof must be given by being posted at the court house door and in three public places in each of the precincts through which it is to pass, and in the neighborhood of the proposed road.

SEC. 15. Such notice must state the beginning and terminus of said road, its general course and direction, as near as possible, and state the time at which application will be made to the board of commissioners for the establishment of said road. If it is proposed to alter, change or discontinue a road the notice

shall state the purpose intended and changes or alterations proposed, as well as carefully describing the road to be changed, altered or discontinued.

SEC. 16. All petitions as herein provided shall be signed by at least twenty-five freeholders of the county wherein such proposed road is located, and upon the filing of the same with the board of commissioners and security or money given or deposited for the satisfaction of all costs and expenses of viewing and examining the proposed road, to the satisfaction of the board, they shall forthwith appoint a commissioner, being a disinterested freeholder of the county, to view and examine said road, and report thereon, with all convenient speed. Said commissioner shall be allowed not to exceed one dollar and a half per day for each day actually and necessarily engaged in examining and viewing the said road, and before entering upon the discharge of his duties he shall take an oath to faithfully and impartially discharge the duties imposed by said appointment.

SEC. 17. The commissioner shall not be confined to the precise matter of the petition, but may inquire and determine whether that road proposed, or any other road in the vicinity, may answer the same purpose and in substance the same as the one required. In forming his judgment, he must take into consideration both public and private convenience and inconvenience, and also the expense of the proposed road. After a general examination, if he should not be in favor of establishing the proposed road, he will so report, giving in full the reasons therefor, and no further proceeding shall be had thereon, but should he deem such establishment expedient he may proceed at once to lay out the road as hereinafter directed, and make report accordingly.

SEC. 18. Upon the filing of the report of the commissioner in favor of the proposed road, the board of commissioners must appoint a day when the matter must be acted upon, which must not be less than thirty nor more than sixty days from the date of the filing of such report. Within thirty days thereafter all claims for damages in consequence of the establishment of said road must be made, and can not be made or claimed thereafter; such claims must be in writing and filed in the office of the county commissioners.

SEC. 19. Upon the filing of such claim or claims the board of commissioners must forthwith, after the expiration of the said thirty days, appoint one competent, disinterested tax payer

of the county, and the party interested shall choose another, who, together with the commissioner herein provided, shall act as appraisers to view and examine the ground on a day fixed by the board, and report upon the amount of damages sustained by the claimant or claimants along the line of the proposed road, after deducting therefrom the benefits which will receive [result] from the establishment of said road. Notice of the appointment shall be given to each of these appraisers and they, before entering upon their duties, shall be sworn faithfully and impartially to discharge them. Said report must be filed on or before the next regular meeting of the board of commissioners. Said appraisers shall each receive one dollar per day for the time actually employed in the performance of their duties. Should the claimant or claimants for such damages fail or refuse to choose an appraiser as above provided, the other two commissioners shall name the third appraiser, and the decision of a majority of the appraisers shall in all cases control.

SEC. 20. Should no damages be awarded to the applicant or claimant growing out of the opening, change, or alteration of said road, the whole of the cost accruing by reason of the application for damages shall be paid by said claimant.

SEC. 21. The commissioners shall then fix a day for final action in relation to said road, at which time they may hear testimony and receive petitions for and against the establishment or change of said road. It may establish or change or reject the application for the road absolutely, or it may make such establishment or change conditional upon the payment in whole or in part of the damages awarded or the expenses incurred in relation thereto, as the public good may seem to require: *Provided, however,* That the board of commissioners in any of the counties in this Territory may cause to be viewed any road heretofore used as a public road, without the consent of the owner of land through which it may pass, and cause an estimate of damages caused by said road to said owner to be made, and thereafter compensate said owner for the same, not to exceed five hundred dollars in any case, and the benefits from the opening of said road shall always be considered in estimating damages: *Provided further,* The commissioners may fix a day final for the satisfaction of all costs and damages, at which time, if the same are not fully paid, further action by them in reference to the said road shall not be had.

SEC. 22. If the petition is granted, and after the road has been finally established and order made and entered thereof, the plat and field notes must be filed by the clerk, a survey thereof having been made by the county surveyor, or some one else appointed for that purpose, the supervisors of roads in the various precincts through which the road may pass shall be directed to have the same opened and worked according to law: *Provided*, A reasonable time must be allowed to enable the owners of land affected by said road to erect the necessary fences: *Provided further*, Where crops have been sowed or planted before the road is finally established, the opening or change thereof shall be delayed or postponed until the crop or crops are harvested.

SEC. 23. Roads may be changed or established or discontinued without the appointment of a commissioner: *Provided*, The written consent of all the proprietors of the land to be used for that purpose or affected thereby be first filed with the board of commissioners.

SEC. 24. If a road exceeds ten miles in length, and it be necessary in the proper location thereof that a survey be made, it shall be borne by the county, to be paid for out of the county funds.

SEC. 25. The establishment or change of a road either along or across the county line may be effected by the concurrent action of the boards of commissioners of the respective counties affected thereby in the mode above described. The road commissioners appointed in such cases must act in concert, and the road will not be deemed established or changed in either county until it is so [established or changed] in both.

SEC. 26. This act shall not apply in any wise to streets and highways in any incorporated city, town or village in this Territory, except as herein provided. The same shall be established, altered, or changed according to existing laws. The mayor and common council or trustees of such incorporated town or city shall appoint the road supervisor for such precincts in which such incorporated city or town is located, and the board of county commissioners in the various counties are not authorized to appoint road supervisors in any incorporated cities or towns: *Provided*, That this act shall not apply to or effect any change in the plat of any city or town or village in this Territory

which shall be on file or hereafter placed on file in the office of the recorder of deeds in any county.

SEC. 27. An appeal shall be allowed from an order of the board of commissioners establishing, altering or changing any public road in this Territory to the district court of the county wherein such road or street is located, by any person aggrieved or injured by said order: *Provided*, That he or they on or before the first day of the next regular term of said court after the order has been made by the board of commissioners shall cause a transcript of all records and papers filed in the case to be filed with the clerk of the district court, and also cause notice of said appeal to be served upon all the parties interested in the matters or establishing or changing said road, but notwithstanding such appeal said road shall be opened or established as the case may be, and the only question to be decided by said district court shall be the amount of compensation or assessment to be allowed as damages for the taking of the property or premises of the party or parties taking the appeal, which question shall be determined by a jury if required by any or either of the parties interested. If the amount assessed by the district court or jury be the same or a less amount than that assessed by the commissioners or appraisers, the party or parties taking such appeal shall pay the costs of the appeal; but if the amount of damages assessed by the district court or the jury trying the case shall be greater than that assessed by the appraisers or commissioners, the parties and each of them, pro rata, who originally sign the petition asking for the establishment, change or alteration of said proposed road and the parties interested therein, shall pay the amount of such excess and costs of such proceeding in the district court.

SEC. 28. Hereafter, including the year 1891, the board of commissioners of the respective counties are hereby authorized to levy a road tax on all property subject to taxation in the various counties, not to exceed one-half of one mill in any one year: *Provided*, That no money shall be spent in any one year for road purposes to exceed what is provided for in this levy: *Provided*, Said tax may be used for repairing roads, building bridges and compensating for rights of way.

SEC. 29. This act shall be in force and take effect from and after the 1st day of May, 1891.

CHAPTER XC.

AN ACT PROVIDING AND DEFINING WHAT PERSONS SHALL BE EXEMPTED FROM SERVICES AS MAYORDOMOS OF ACEQUIAS AND ROAD SUPERVISORS WITHIN THE LIMITS OF THIS TERRITORY. *H. B. 158; Approved February 26, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Hereafter it shall be prohibited to elect or appoint as mayordomo of acequias or public road supervisor all persons of ill-health, of a notable malady, or who are demented or of unsound mind, or who are lame either in one leg or both or one arm or both, and furthermore all persons who are exempted by law from paying road taxes. *182 Sec 5- this sub 21656 gro*

SEC. 2. That all appointments made in conflict with section 1 of this act are hereby declared void and of no effect.

SEC. 3. That all acts and parts of acts in conflict with this act are hereby repealed.

SEC. 4. That this act shall be in force from and after its passage.

CHAPTER XCI.

AN ACT TO PROVIDE FOR THE CUSTODY AND CARE OF THE CAPITOL BUILDING AND GROUNDS AT SANTA FE. *H. B. 72; Approved February 26, 1891.*

CONTENTS.

- SECTION 1. Capitol Custodian Committee of three appointed by Governor, of whom Secretary of the Territory shall be one.
- SEC. 2. Such committee shall organize by electing a president and secretary. Quorum.
- SEC. 3. They shall have the care and custody of the building, employment, and purchase of fuel, light and water.
- SEC. 4. Meetings of the committee and per diem.
- SEC. 5. Duty to audit all accounts, keep a record of such action, and of the certifying the same.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That upon the taking effect of this act it shall be the duty of the Governor, by and with the consent of the Legislative Council, to appoint and select three persons, who shall constitute and be known as the Capitol Custodian Committee, one of whom shall be the Secretary of the Territory and the other two of whom shall be selected one from each political party; such persons shall hold their offices for the term of two years and until their successors are selected, and in case of a vacancy on such committee during a time when the Legislature is not in session, the Governor shall fill such vacancy, and the person so appointed shall hold his office until his successor is selected in accordance with the provisions of this act.

SEC. 2. As soon as such committee shall be appointed it shall be the duty of the members thereof to meet in Santa Fe, and organize by the selection of one of the members thereof as president; and another of such members as secretary. Any two members of such committee shall constitute a quorum for the transaction of business. The president shall preside at all meetings of the committee, and the secretary shall keep a full and complete record of all business done by such committee.

SEC. 3. Such Capitol Custodian Committee shall have the care, custody and control of the capitol building and grounds thereto belonging at Santa Fe. It shall be the duty of such committee to provide for the care, cleaning, heating and lighting of such building, and the care of such grounds, and for this purpose shall have full power to employ the necessary number of persons of the requisite qualifications, and to fix the terms of their employment and the amount of their compensation; and shall also have power to contract for the necessary fuel, light and water required for such building and grounds.

SEC. 4. For the purpose of transacting the business required by this act such committee shall hold at Santa Fe not exceeding four meetings annually, and shall not continue in session longer than five days at any meeting, and such members shall be entitled to five dollars per day when actually in attendance at such meetings, which amounts shall be paid out of the Territorial treasury upon a presentation to the Territorial Auditor of a sworn account by each member of such committee of the number of days actually served by him at each meeting, and the

Auditor shall draw his warrant upon the Territorial Treasurer for such amount.

SEC. 5. It shall be the duty of such committee to examine, audit and allow, at the meetings thereof, all claims due and owing to any person or persons on account of salary or wages as the employes of such committee, and also on account of any contracts made by such committee for fuel, light, water or other articles, which allowances shall be entered in full upon the record kept by such committee, and upon the presentation of a copy of such allowance duly certified to by the secretary of such committee, to the Territorial Auditor, it shall be his duty to draw his warrant for the amount thereof upon the Territorial Treasurer in favor of the person to whom such allowance is made.

SEC. 6. All laws in relation to the care and custody of the capitol building and grounds at Santa Fe, and all laws in conflict with this act are hereby repealed.

SEC. 7. This act shall take effect and be in force from and after its passage.

CHAPTER XCII.

AN ACT TO PROVIDE FOR THE PAY OF THE ENGINEERS OF THE CAPITOL BUILDING FOR THE MONTHS OF JANUARY AND FEBRUARY, 1891. *H. B. 197; Approved February 26, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That the engineer and the assistant or night engineer of the capitol building shall receive the sum of seventy-five and sixty dollars per month respectively as compensation for their services during the months of January and February, 1891, to be paid to them upon a certificate of service signed by the secretary of the Capitol Building Committee, directed to the Auditor, who shall draw his warrant for the same upon any one or more of the funds now in the Territorial treasury, from which the same shall be paid.

SEC. 2. All acts or parts of acts in conflict with this act

are hereby repealed, and this act shall be in full force and effect immediately after its passage.

CHAPTER XCIII.

AN ACT TO AMEND SECTION 1 OF CHAPER 38 OF THE LAWS OF 1889, RELATIVE TO CEMETERIES, AND TO REGULATE THE BURIAL OF DEAD BODIES. *H. B. 176; Approved February 26, 1891.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That section 1 of the act of the Legislative Assembly, entitled "An Act to prevent the burial of dead bodies along the banks of streams and rivers of running water in the Territory of New Mexico," be and the same is hereby amended so that instead of two hundred and fifty yards provided for in said section on the one or the other side of the bank of any stream or streams or any river of running water, said distance shall hereafter be not more than fifty yards.

SEC. 2. This act shall be in force from and after its passage.
Translation.

CHAPTER XCIV.

AN ACT PROVIDING FUNDS AND MAKING APPROPRIATIONS FOR THE FORTY-SECOND AND FORTY-THIRD FISCAL YEARS, AND FOR OTHER PURPOSES. *C. B. 81; Approved February 26, 1891.*

CONTENTS.

SECTION. 1. Appropriations for the forty-second fiscal year.

SEC. 2. Appropriations for the forty-third fiscal year.

SEC. 3 Auditor to issue warrants on certain certificates issued to witnesses, etc., and for clerks' fees earned prior to February, 1889. Appropriation.

SEC. 4. Disposition of any surplus remaining at the end of the year in any appropriation.

SEC. 5. Appropriation for court expenses in Santa Fe and Grant counties for February, 1891.

- SEC. 6. Tax levy for forty-third and forty-fourth fiscal years for Territorial purposes. Proviso.
- SEC. 7. Specifies property exempt from taxation.
- SEC. 8. Levy and appropriations apply to subsequent years, except as may be changed by legislation.
- SEC. 9. After March, 1898, the expenses of the district court shall be paid by the counties respectively. Proviso.
- SEC. 10. Auditor drawing warrant or Treasurer paying same when no money for the purpose, subject to penalty.
- WORLD'S COLUMBIAN EXPOSITION.
- SEC. 11. Authorizes a Territorial Board of World's Columbian Exposition managers.
- SEC. 12. The board appointed by the Governor. Shall elect officers and make rules for its government.
- SEC. 13. Per diem and expenses paid.
- SEC. 14. Said board shall have charge of the collection and preparation of the exhibits.
- SEC. 15. The World's Columbian Commission and the Lady Managers have authority in relation to participation.
- SEC. 16. Board shall report to the Governor. To be transmitted to Legislature.
- SEC. 17. Appropriates \$35,000 for the purpose of an exhibit. Paid out on requisitions approved by the Governor.
- SEC. 18. Limitation of existence of board. Report.
- SEC. 19. The several counties are authorized to make appropriations for the same object.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. For the forty-second fiscal year the following appropriations, or so much thereof as may be necessary, are hereby made and directed to be paid for the purposes hereinafter expressed, to-wit:

Penitentiary interest fund.....	\$ 8,400 00	
Capitol interest fund.....	14,000 00	
Current expense interest fund.....	9,000 00	
For the penitentiary current expense fund.....	32,500 00	?

To be paid as follows:

Pay of Officers and Employees—

One superintendent.....	\$ 2,000 00
One superintendent assistant, who shall act as steward and store keeper.....	1,500 00
One physician.....	600 00
One chaplain.....	200 00
One yard master and foreman of brick yard.....	720 00
One cell house keeper (day time).....	600 00
One cell house keeper (night time).....	600 00
One captain of the guard (day time).....	600 00
One captain of the guard (night time).....	600 00
Seven day guards at thirty dollars per month.....	2,520 00
Three night guards at thirty dollars per month...	1,080 00
One matron.....	360 00

Maintenance and Repairs—

Rations for convicts, guards and employes, and tobacco.....	11 500
.....	\$ 13,000 00
Clothing for convicts.....	1,800 00
Clothing and cash for discharged convicts.....	500 00
Rewards for pursuit and capture of convicts.....	150 00
Fuel and lights.....	2,000 00
Water service.....	500 00
Hospital medicines.....	350 00
Beds and bedding for convicts.....	200 00
Furniture and utensils for convicts in cell house and main building.....	300 00
Arms and ammunition for guards.....	100 00
Keeping horses, blacksmithing, etc.....	350 00
Repairs to building and stockade.....	100 00
Stationery, etc., and books for convicts.....	200 00
Total.....	\$ 30,930 00

For tools, wheelbarrows, wagons, teams, machinery and all other necessary material and employes, such amount as may be necessary in the judgment of the Penitentiary board to be paid for entirely out of the proceeds of the material or articles manufactured by the prisoners in the Penitentiary, not to exceed ten thousand dollars: *Provided*, That all the products of convict labor shall be sold to the highest bidder, for cash, after twenty days notice by advertisement in three daily newspapers, not more than one of which shall be published in the same county: *Provided further*, That the Board of Penitentiary commissioners are hereby authorized and required to construct, of brick or such other material as they shall deem best, with convict labor, a good and substantial wall around the Penitentiary grounds: *And provided further*, That the provisions hereof shall not be construed to repeal or modify sections 54 and 55 of Chapter 138, entitled "An Act to establish and provide for the maintenance of the University of New Mexico, the Agricultural College and Agricultural and Experiment Station, the School of Mines and Insane Asylum, and for other purposes," approved February 28, 1889.

For capitol current expense fund (The superintendent of Penitentiary is hereby made the custodian of the capitol grounds and authorized to employ

the convicts in keeping the same in good order and condition, acting under the supervision of the Capitol Commission).....	6,000 00
For the salary fund.....	\$ 34,300 00
To be paid as follows:	
Pay of Territorial Officers—	
For Superintendent of Public Instruction, salary and traveling expenses.....	2,500 00
For district attorneys.....	7,000 00
For Solicitor General.....	2,000 00
For district clerks.....	16,000 00
For Territorial Auditor.....	2,000 00
For Territorial Treasurer.....	2,000 00
For Librarian.....	900 00
For clerk of Treasurer.....	600 00
For Penitentiary Board and clerk.....	1,300 00

Total salary fund.....\$ 34,300 00

Provided, That each clerk of the district court shall be paid out of the sum above appropriated, the sum of three thousand and two hundred dollars, but all fees payable as clerks' fees in any cause in their district respectively, by any person, shall be promptly collected by them and turned over quarterly to the treasury of the Territory, said clerks first rendering an itemized statement of the same to the Auditor of the Territory, and settling with him the account thereof, and no clerk shall be excused from paying into the treasury any fees due the clerk in his district, unless he shall have issued first an execution or cost bill for the same within three days after the same becomes due and the same has been returned nulla bona, which fees shall be turned into and become a part of the salary fund: *Provided further*, that there be and hereby is transferred, and the Treasurer of the Territory is hereby authorized to transfer from any surplus of any fund which may be on hand for the fortieth or forty-first fiscal years to the salary fund, the sum of \$11,000.00.

COURT FUND.

To pay per diem and fees of the clerk of the Supreme Court.....	\$ 200 00
For printing transcripts and briefs in the Supreme Court of New Mexico and in the Supreme Court of the United States in cases where the Territory	

is a party or interested, or so much thereof as may be necessary.....	300 00
For paying actual necessary traveling expenses of the Solicitor General in attending to his duties as such before the Supreme Court of the United States, or so much thereof as may be necessary..	300 00
Compensation and Mileage of Jurors—	
For Santa Fe county.....	\$ 5,800 00
For Taos county.....	1,800 00
For Rio Arriba county.....	1,800 00
For San Juan county.....	1,000 00
For Bernalillo county.....	6,200 00
For Valencia county.....	1,800 00
For Doña Ana county.....	5,800 00
For Grant county.....	4,000 00
For Sierra county.....	2,000 00
For San Miguel county.....	6,500 00
For Mora county.....	2,200 00
For Colfax county.....	2,500 00
For Socorro county.....	5,000 00
For Lincoln county.....	1,600 00
For Chaves county.....	1,000 00
For Eddy county.....	600 00
Total.....	\$56, 400 00

Provided, That in the several counties of this Territory where courts are held for trial of causes arising under the law of the United States, the number of grand jurors shall be twenty-one, any twelve of whom may find an indictment, and the number of petit jurors shall be twenty-four. Such grand and petit jurors shall be selected from the counties composing the first, second, third, fourth and fifth judicial districts respectively, and the grand jurors so selected shall have jurisdiction to inquire into and presentment make of all crimes and offenses committed against the laws of the United States within and triable in the judicial district for which such jurors may be selected, and shall also have jurisdiction to inquire into and presentment make of all crimes and offenses committed against the laws of the Territory of New Mexico within and triable in the county in which such court may be held, and the petit jurors selected in and for the respective districts mentioned in this section shall have au-

thority to try all causes arising under the laws of the United States in any county in said district, and also to try all causes arising under the laws of the Territory of New Mexico in the county in which such court may be held; it being the true meaning and intention of this clause and act to provide for one grand and petit jury in the county where causes arising under the laws of the United States may be triable, which juries shall have cognizance of all causes arising under the laws of the United States in the several counties comprising any such district, and shall also have cognizance of all causes arising under the laws of the Territory in the county in which such court may be held. The juries provided for in this section shall receive no pay from the Territory of New Mexico, except the petit jurors who may be retained by the court for the period of three weeks during each term of the court after they have been finally paid for their attendance and mileage by the United States, for which period of three weeks they shall receive pay from the Territory of New Mexico at the rate of two dollars per day, Sundays excepted, but shall receive no pay nor compensation for any mileage.

For Compensation and Mileage of Witnesses—

For Santa Fe county district court.....	\$ 1,350 00
For Taos county district court.....	600 00
For Rio Arriba county district court.....	700 00
For San Juan county district court.....	500 00
For Bernalillo county district court.....	1,800 00
For Valencia county district court.....	1,050 00
For Doña Ana county district court.....	1,500 00
For Grant county district court.....	1,700 00
For Sierra county district court.....	850 00
For San Miguel county district court.....	2,100 00
For Mora county district court.....	1,000 00
For Colfax county district court.....	1,000 00
For Socorro county district court.....	1,300 00
For Lincoln county district court.....	1,000 00
For Chaves county district court.....	600 00
For Eddy county district court.....	600 00

Total.....\$ 17,650 00

Provided, That no witness shall be paid more than five cents per mile in going to and returning from the district court, nor shall any witness summoned before any grand jury be paid for

more than three days attendance before such grand jury at any one term, nor shall any witness who resides within three miles from the court house of any county, be paid for more than one day's attendance before the grand jury of the county where he resides at any one time; nor shall any witness who resides within three miles from the court house be paid more than fifty cents per day for his attendance before the grand jury of the county where he resides: *Provided further*, That it shall be the duty of the judge of each district court to fix a day for the trial of each criminal case in the district court, which day shall not be earlier than the third day of the term, and shall be fixed by the judge not less than twenty days before the first day of the term at which it shall be tried, except that no day shall be fixed for the trial of any criminal case which the judge has reason to believe will not be tried at such term, and witnesses summoned on behalf of the Territory in any cause so fixed for trial, shall be summoned to appear at the court house of the proper county at nine o'clock a. m. of the day in which said cause shall be fixed for trial to testify on behalf of the Territory in such cause.

For Compensation of Bailiffs in the District Court—

For Santa Fe county (three bailiffs).....	\$ 450 00
For Rio Arriba county (three bailiffs).....	160 00
For Taos county (three bailiffs).....	230 00
For San Juan county (three bailiffs).....	120 00
For Bernalillo county (three bailiffs).....	540 00
For Valencia county (three bailiffs).....	90 00
For Doña Ana county (three bailiffs).....	450 00
For Grant county (three bailiffs).....	270 00
For Sierra county (three bailiffs).....	180 00
For San Miguel county (three bailiffs).....	630 00
For Mora county (three bailiffs).....	180 00
For Colfax county (three bailiffs).....	225 00
For Socorro county (three bailiffs).....	350 00
For Lincoln county (three bailiffs).....	90 00
For Chaves county (three bailiffs).....	60 00
For Eddy county (three bailiffs).....	60 00

Total.....\$ 4,805 00

Provided, That the bailiffs who may attend on the grand jury shall be discharged at the same time that the grand jurors are discharged.

For Compensation of Interpreters of the District Court—

Santa Fe county.....	\$ 864 00
For Rio Arriba county.....	475 00
For Taos county.....	238 00
For San Juan county.....	135 00
For Bernalillo county.....	1,040 00
For Valencia county.....	288 00
For Doña Ana county.....	922 00
For Grant county.....	650 00
For Sierra county.....	410 00
For San Miguel county.....	1,250 00
For Colfax county.....	325 00
For Mora county.....	325 00
For Socorro county.....	864 00
For Lincoln county.....	272 00
For Chaves county.....	216 00
For Eddy county.....	115 00

Total\$ 8,389 00

Provided, That no interpreter for the district court shall be paid more than eight dollars per day, and no interpreter for any grand jury shall be paid more than three dollars per day.

For Compensation of Stenographers of the District Court—

For Santa Fe county.....	\$ 540 00
For Rio Arriba county.....	252 00
For Taos county.....	144 00
For San Juan county.....	90 00
For Bernalillo county.....	648 00
For Valencia county.....	108 00
For Doña Ana county.....	540 00
For Grant county.....	324 00
For Sierra county.....	216 00
For San Miguel county.....	756 00
For Mora county.....	144 00
For Colfax county.....	216 00
For Socorro county.....	546 00
For Lincoln county.....	168 00
For Chaves county.....	125 00
For Eddy county.....	72 00

Total\$ 4,889 00

R. A. Henry

Provided, That a stenographer for each district court shall be paid seven dollars per day for his attendance and for doing such work as may be required to do by the judge of the court during the term.

For printing dockets for the Supreme Court, not less
than one hundred copies.....\$ 50 00

For Sheriffs' Attendance, Summoning Jurors and Witnesses
and Other Necessary Duties, and Legal Fees in the Dis-
trict Courts—

For Santa Fe county.....	\$ 835 00
For Rio Arriba county.....	537 50
For Taos county.....	250 00
For San Juan county.....	245 00
For Bernalillo county.....	2,612 50
For Valencia county.....	625 00
For Doña Ana county.....	1,250 00
For Grant county.....	875 00
For Sierra county.....	750 00
For San Miguel county.....	3,000 00
For Mora county.....	750 00
For Culfax county.....	875 00
For Socorro county.....	1,000 00
For Lincoln county.....	600 00
For Chaves county.....	350 00
For Eddy county.....	250 00

Total.....\$ 14,805 00

Provided, That in the service of any kind of process on be-
half of the Territory where the sheriff shall serve more than one
writ, subpoena or other order of the court on any one trip, he
shall only be allowed to charge mileage for the whole number
so served for the number of miles actually traveled in making
such service and returning, and it shall be his duty where he has
more than one process, writ, warrant or order to serve at the
same place on the line of his travel to the most distant point
which he will be required to go to serve all of such process,
writs, warrants and orders on the same regular trip and make
but one charge for mileage thereof.

Stationery, Meals of Jurors and Extraordinary Expenses—
Santa Fe county.....\$ 375 00
Rio Arriba county..... 150 00

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Provided, That in the service of any kind of process on behalf of the Territory where the sheriff shall serve more than one writ, subpoena or other order of the court on any one trip, he shall only be allowed to charge mileage for the whole number so served for the number of miles actually traveled in making such service and returning, and it shall be his duty where he has more than one process, writ, warrant or order to serve at the same place or on the line of his travel to the most distant point which he will be required to go to serve all of such process, writs, warrants and orders on the same regular trip and make but one charge for mileage thereof.

Stationery, Meals of Jurors and Extraordinary Expenses—

Santa Fe county.....	\$ 300 00
Rio Arriba county.....	150 00
Taos county.....	150 00
San Juan county.....	75 00
Bernalillo county.....	400 00
Valencia county.....	100 00
Doña Ana county.....	300 00
Grant county.....	300 00
Sierra county.....	150 00
San Miguel county.....	400 00
Mora county.....	100 00
Colfax county.....	150 00
Socorro county.....	200 00
Lincoln county.....	100 00
Chaves county.....	75 00
Eddy county.....	75 00

Total.....\$ 3,025 00

For Interest on Outstanding Warrants and Sinking Fund for Redemption of Outstanding Warrants, or on any Bonds Issued in Lieu thereof—

Interest.....\$ 9,600 00

For redemption of warrants, any surplus which may exist over and above the funds necessary to pay the current expenses of the Territory, as provided for in this act: For redemption of warrants any surplus which may exist over and above the funds necessary to pay the current expenses of the Territory, as provided for in this act, and all outstanding warrants drawn after March 4, 1889, on account of indebtedness previous to said date,

shall bear interest at the rate of six per cent per annum from the date of issue: *Provided*, That any person holding outstanding warrants of the Territory may at any time convert the same into bonds of the Territory bearing interest at the rate of six per cent per annum, such bonds to be issued as near as possible in conformity with the provisions of section 6 of an act entitled "An Act relating to the finances of the Territory of New Mexico, approved February 8, 1889," said bonds to be paid in ten years after date thereof. The cost of printing and issuing said bonds to be paid for by the holder of said warrants: *Provided*, That the warrants mentioned in this act shall not be held to include or mean warrants issued under and by virtue of an act entitled "An Act to amend an act entitled militia," approved January 28, 1867," nor any warrant heretofore issued or which may hereafter be issued for any alleged indebtedness of this Territory on account of the militia or militia service of this Territory.

PROVISIONAL INDEBTEDNESS FUND.

For interest on bonds thereof.....\$ 12,000 00

FOR MISCELLANEOUS FUND.

For postage, express, printing blanks and publication of the quarterly reports of the Auditor and for printing reports for the 30th Legislative Assembly in English and Spanish..... 750 00

For postage and express, printing blanks, and publication of the quarterly reports of the Territorial Treasurer and for printing reports for the 30th Legislative Assembly in English and Spanish... 600 00

For postage and stationery in the Librarian's office.. 100 00

For the purchase of books for the Library and payment of express and freight..... 1,300 00

Protecting and maintaining property of the Historical Society of New Mexico and for the purchase of historical objects, documents and books..... 600 00

For the publication, express and postage of the Bureau of Immigration..... 1,000 00

For cataloguing, numbering, indexing, binding and translating the old Spanish and Mexican archives belonging to the Territory of New Mexico..... 1,200 00

Provided, That it shall be the duty of the Governor to contract with some competent person to catalogue, number, index and translate said archives, it being understood that only such documents as contain matter of historical interest to New Mexico shall be required to be translated, and that the person with whom such contract shall be made shall also make clean copies of said documents as he may translate with proper indexes to both Spanish and English, so as to prepare the same for publication as historical documents; said documents shall also be arranged chronologically.

The salary of the secretary of the Bureau of Immigration shall be twenty-five dollars per month. . . . \$ 25 00

For rewards to be offered by the Governor for the apprehension of criminals. . . . 1,500 00

For expenses in serving requisitions and securing the return of fugitives from justice. . . . 1,000 00

For the Sisters Hospital, St. Vincent's, at Santa Fe. . . . 7,500 00

For the Grant County Hospital at Silver City. . . . 3,000 00

For the Sister's of Mercy Hospital at Silver City. . . . 2,000 00

Provided, That annual reports to be made to the Governor giving itemized accounts of all expenditures, number of indigent cases treated, and number of days each party has been confined in said hospital, it being understood that this proviso shall apply only to the Grant County Hospital and Sisters of Mercy Hospital at Silver City.

For the Orphan's School at Santa Fe. . . . \$ 5,000 00

For the Ladies Relief Society at Las Vegas. . . . 3,000 00

For the School for the Deaf and Dumb, Santa Fe. . . . 2,400 00

For printing tax books, license books, schedules and necessary blanks. . . . 550 00

For printing reports of Superintendents of Public Schools. . . . 500 00

To pay bounty for killing wild animals. . . . 1,000 00

For the militia fund, including salary and office rent of the Adjutant General and all other actual and necessary expenses incurred by the Territory under the laws in reference to militia and perfecting muster rolls of volunteers during the rebellion in New Mexico, under the direction of the Governor and Adjutant General. . . . 1,500 00

For poll books, registration books and other printed

blanks necessary for the elections and conveying returns to the capital.....	1,000 00
For contingent expenses in the executive office to be paid on vouchers certified by the Governor, a sum not exceeding.....	500 00

FOR COMPENSATION OF ASSESSORS.

For the county of Santa Fe.....	\$ 1,080 00
For Rio Arriba county.....	500 00
For Taos county.....	260 00
For San Juan county.....	170 00
For Bernalillo county.....	2,230 00
For Valencia county.....	870 00
For Doña Ana county.....	1,320 00
For Grant county.....	1,890 00
For Sierra county.....	775 00
For San Miguel county.....	2,500 00
For Mora county.....	800 00
For Colfax county.....	1,560 00
For Socorro county.....	1,360 00
For Lincoln county.....	900 00
For Chaves county.....	550 00
For Eddy county.....	550 00

Total.....\$ 17,315 00

Provided, That the foregoing appropriation for the compensation of assessors shall be to pay for the fiscal year commencing the first Monday in March, A. D. 1892: *And provided further*, that the said assessors shall only be paid on the amount of tax which shall be actually collected under their assessments, and shall receive five per cent of all the licenses collected, unless otherwise hereafter provided by law, which said provision shall also be applicable to the county funds, and no assessor shall receive any compensation on account of any amount assessed or collected for the school fund: *Provided further*, That it shall be the duty of each assessor to make out, perfect and complete, all assessment books, rolls, lists, and abstracts of assessment required by law to be made for any purpose whatever, free of any additional charge therefor, and no further or other compensation shall be paid to any one for making out, perfecting or completing any tax or assessment books, rolls, lists, schedules, or other abstracts required by law to be made in any county, either

for the use of the board of county commissioners or for the Auditor of the Territory or for the collector of such taxes.

For transportation of convicts to the penitentiary

and executing death warrants.....\$ 4,000 00

Provided, That no sheriff shall employ more than one guard in conducting prisoners to the penitentiary, unless there be more than two prisoners, and for every two additional prisoners he shall be entitled to one additional guard: *Provided*, That no sheriff shall charge for prisoners and guards in transporting prisoners, any greater amount than the actual necessary expenses of such guard and prisoners in going and returning, but such guards shall be paid one dollar per day while necessarily so traveling with such prisoners and returning.

[NOTE.—The following is section 2 amended according to the terms of the note of the Joint Conference Committee of the two branches of the Legislative Assembly.

SECRETARY OF THE TERRITORY.]

SEC. 2. For the forty-third fiscal year the following appropriations, or so much thereof as may be necessary, are hereby made and directed to be paid for the purposes hereinafter expressed, to-wit:

Penitentiary interest fund.....	\$ 8,400 00
Capitol interest fund.....	14,000 00
Current expense interest fund.....	9,000 00
For the penitentiary current expense fund.....	32,500 00

To be paid as follows:

Pay of Officers and Employees—

One superintendent.....	\$ 2,000 00
One superintendent assistant, who shall act as steward and store keeper.....	1,500 00
One physician.....	600 00
One chaplain.....	200 00
One yard master and foreman of brick yard.....	720 00
One cell house keeper (day time).....	600 00
One cell house keeper (night time).....	600 00
One captain of guard (day time).....	600 00
One captain of guard (night time).....	600 00
Seven day guards at thirty dollars per month.....	2,520 00
Three night guards at thirty dollars per month...	1,080 00
One matron.....	360 00

Maintenance and Repairs—

Rations for convicts, guards and employes, and to-

of the location thereof; irrigating ditches, canals and flumes belonging to communities and used exclusively for irrigating lands, without any charge or compensation for the same or for the water thereof, except the necessary work and charges to keep the same in repair; and cemeteries not held and used for pecuniary profit.

SEC. 8. The levy and appropriation in this act made for the even numbered years shall apply to and be in force for all even numbered years hereafter, except as the same may be otherwise changed or provided for by the Legislative Assembly, and the levy and appropriations in this act for the odd numbered years shall apply to and be in force for all odd numbered years hereafter except as the same may be otherwise changed or provided for by the Legislative Assembly.

Sec 2-90/46
→ SEC. 9. After the first Monday in March, A. D. 1893, all the expenses of the district courts except such as shall be paid by the United States, shall be borne and paid by the counties in which the respective courts shall be held: *Provided*, That the Territory shall pay the salaries of the judges and of the clerks of the district court.

Sec 93/31/46
SEC. 10. If the Auditor of the Territory shall draw any warrant on the Treasurer of the Territory or if the Treasurer of the Territory shall pay any warrant when there is no money in the treasury in the particular fund for which the warrant is drawn, he shall be liable to a fine of not less than one thousand dollars (\$1,000.00) and imprisonment for not less than one year and shall be summarily removed from office by the Governor.

An act to provide for the collection, arrangement and display of the products of the Territory of New Mexico at the World's Columbian Exposition of 1893, and to make an appropriation therefor:

Whereas, The Congress of the United States has provided, by an act approved April 25, 1890, for celebrating the four-hundredth anniversary of the discovery of America by Christopher Columbus by holding an international exhibition of arts, industries, manufactures, and the products of the soil, mine and sea, in the city of Chicago, in the State of Illinois, in the year 1893; and,

Whereas, It is of great importance to the natural resources, industrial development, historic arts, and general progress of the Territory of New Mexico, should be fully and creditably displayed to the world at said exposition.

SEC 11. That for the purpose of exhibiting the resources, products, historic arts, and general development of New Mexico at the World's Columbian Exposition of 1893, a commission is hereby formed, in addition to the World's Columbian Commissioners, the lady managers, and their alternates, of the World's Columbian Commission from New Mexico, to be called the Territorial Board of World's Columbian Exposition Managers of New Mexico, which shall act with the World's Columbian Commissioners, the lady managers and their alternates, from the Territory of New Mexico, of four men, residents of New Mexico, to be organized and continue its duties as hereinafter provided.

SEC. 12. The members of the said Territorial board shall be appointed by the Governor within sixty days after the passage of this act, two men from each of the two principal political parties, in the spirit of the act of Congress creating the World's Columbian Commission, and shall meet at such time as the Governor may appoint and organize by the election of a president, a vice-president, a secretary and a treasurer, who shall act as aforesaid in conjunction with the World's Columbian Commissioners. The treasurer of said board shall give a bond to the Territory in the sum of twenty thousand dollars, with not less than four sureties, to be approved by the Governor, for the proper performance of his duties.

Three members of the said board shall constitute a quorum for the transaction of business. The board shall have power to make rules and regulations for its own government, provided such rules and regulations shall not conflict with the regulations adopted under the act of Congress by the World's Columbian Commission for the government of said exposition. Any member of the board may be removed at any time by the Governor for cause. Any vacancy which may occur in the membership of said board shall be filled by the Governor.

SEC. 13. The four members of the board formed by the virtue of this act shall be entitled to their actual expenses for transportation and the sum of four dollars a day for subsistence for each day they are necessarily absent from their homes on the business of said board: *Provided*, That none of the World's Columbian Commission, the lady managers nor their alternates shall receive any compensation from the Territory.

SEC. 14. The said board shall have charge of the collection

and preparation of the exhibits of New Mexico for the World's Columbian Exposition of 1893; it shall communicate with the officers and obtain and disseminate through New Mexico all necessary information regarding the said exposition.

SEC. 15. The members of the World's Columbian Commission and the lady managers from the Territory of New Mexico shall have and exercise full authority in relation to the participation, the display and arrangement of the exhibits of New Mexico and its citizens in the World's Columbian Exposition of 1893.

SEC. 16. The said Territorial board shall make a report of its proceedings and expenditures from time to time to the Governor, and at any time upon his written request to be by him transmitted to the legislature, together with such suggestions as he may deem important regarding provision for a complete and creditable representation of New Mexico at the World's Columbian Exposition of 1893.

SEC. 17. To carry out the provisions of this act the sum of twenty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated, and the Territorial Treasurer is directed to pay the same from the fund appropriated and set aside for that purpose, ten thousand dollars in 1891, ten thousand dollars in 1892, and five thousand dollars in 1893, on requisition of said board, signed by the president and secretary, and approved by the Governor, and accompanied by estimates of the expenses to the payment of which the money so drawn is to be applied.

SEC. 18. The said board acting within New Mexico shall exist no longer than January 1, 1894, but before that time the said board shall make a complete final report of all its doings under this act, together with a detailed statement of all moneys expended thereunder. And said board shall also make a similar statement to the Governor by the 15th day of December, 1892, showing in detail all work done and expenditures made up to that time.

SEC. 19. The several counties of the Territory of New Mexico, through their county commissioners, are hereby empowered to appropriate such suitable sums as may to them seem fit, to be placed at the disposal of the members of said board, for the purpose of aiding the exhibiting of the county's products.

SEC. 20. All acts and parts of acts in conflict with this act

are hereby repealed, and this act shall be in force and effect from and after its passage.

CHAPTER XCV.

AN ACT TO DEFINE THE QUALIFICATIONS AND REGULATE THE DRAWING OF JURORS. *H. B. 96; Approved February 26, 1891.*

CONTENTS.

SECTION 1-2. Qualification of jurors.

- SEC. 3. List of persons subject to jury duty to be made, and by whom.
- SEC. 4. List to be delivered to the clerk of the district court on or before August 1.
- SEC. 5. Form of oath in verification of jury list.
- SEC. 6. County commissioners shall provide boxes or wheels for jury slips.
- SEC. 7. Clerk district court shall care for jury boxes. Penalty for tampering with same.
- SEC. 8. Clerk shall copy on slips of paper the name of each juror and deposit in jury box, etc.
- SEC. 9. Drawing the jury shall be public and by the judge and clerk. Judge in his discretion may draw additional names.
- SEC. 10. When juror summoned may be excused. Disqualified persons.
- SEC. 11. The impeared jury. Disposition of names not found or excused.
- SEC. 12. Talesmen.
- SEC. 13. Jurors for the United States court.
- SEC. 14. Eligibility. Disposition of names eligible as jurors after service.
- SEC. 15. Jury lists may be annually revised.
- SEC. 16. In the absence of the judge how jury shall be drawn.
- SEC. 17. Penalty for omitting qualified or adding names of persons disqualified to serve as jurors.
- SEC. 18. Correction of jury lists by the judge.
- SEC. 19. Jury box shall be thoroughly shaken before drawing.
- SEC. 20. Penalty when officer fails to summons jurors appearing upon the venire.
- SEC. 21. Officer failing to find jurors shall make return of the facts.
- SEC. 22. Number of grand and petit jurors. Twelve grand jurors shall concur in finding an indictment.
- SEC. 23. Chapter 51, laws of 1887, may apply to special terms of court.
- SEC. 24-26. Relates to United States court, with an exception.
- SEC. 27. Return day of venire.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. Every male citizen of the United States over the age of twenty-one years, of sound mind, who has been a bona fide resident of the Territory for one year, of the county or district for which he may be selected or drawn for six months immediately preceding his being selected or drawn as a juror, and

who is the owner of property in the county or district for which he may be selected or drawn subject to taxation (for Territorial purposes other than school purposes), and who shall have paid taxes on the same for such purposes, and who has not been convicted of any infamous crime, is not an habitual drunkard or a person living in a state of bigamy or polygamy or subject to any of the disqualifications mentioned in the next succeeding section, shall be qualified and liable to be selected, summoned and serve as grand and a petit juror in the county or district where he resides. Every male citizen possessing at the time of his selection all the prerequisites of a qualified voter under the laws of this Territory shall be a qualified grand or petit juror in the county from which he is drawn, and shall also be qualified as a grand or petit juror in the United States district court for the judicial district in which he resides, except as hereinafter provided.

SEC. 2. The following classes of persons, and none others, shall be disqualified to sit or serve as jurors in any of the courts of this Territory: All persons holding any office of trust or profit in this Territory by virtue of any appointment or commission under the government of the United States; all Territorial, district, county or precinct officers except notaries public and school directors; all practising physicians, druggists, attorneys at law, ministers of the gospel, professors and teachers of colleges, schools and other institutions of learning, who are actually engaged in teaching; all editors of newspapers actually engaged in the publication of the same, and all persons over the age of sixty years.

SEC. 3. That it shall be the duty of the several judges of the district courts, with the assistance of one other person competent to serve as a juror in the county or district respectively, to be selected by said judge and the assessors in the several counties respectively of this Territory, on or before the first day of May in each and every year, to cause to be prepared an alphabetical list of the persons residing in their respective counties, who are subject to jury duty under the laws of this Territory, and such lists shall be opened for the examination of any person at any time before they are transmitted as required by the section next succeeding.

SEC. 4. Such lists when so prepared and entered in well bound books, to be provided by the board of county commis-

sioners for the purpose, shall be by such assessors, on or before the said first day of August, annually delivered to the clerk of the district court for the judicial district within which said assessors respectively perform their duties, and shall be preserved as a part of the record of the office of such clerk.

SEC. 5. Each judge of the district court, or his assistant and assessor shall attach to the list prepared by him an oath in the following form, which shall be subscribed and sworn to by the assessor before the clerk of the district court:

I,, assessor, within and for the county of, Territory of New Mexico, do solemnly swear that the foregoing list, containing names, is a full, true and correct list of all persons within the said county of who are liable to do duty as jurors in the Territory of New Mexico, so far as I have been able to ascertain after diligent inquiry, and I do further solemnly swear that I have not placed upon the said list, the name of any person who is not believed by me to be liable to jury duty, nor have I omitted therefrom the name of any person who is known or believed by me to be liable to jury duty, so help me God.

Subscribed and sworn to before me this day of

SEC. 6. It shall be the duty of the several boards of county commissioners in the various counties of this Territory to provide the district clerk of the judicial district within which said boards of county commissioners respectively reside, two wheels or boxes, constructed in part of glass in such a manner that the entire contents of such wheels or boxes may be clearly visible when such wheels or boxes are closed and locked, as hereinafter provided, and also all necessary materials for sealing and locking the said wheels or boxes in accordance with the provisions of this act.

SEC. 7. It shall be the duty of the district clerk to carefully preserve and protect the wheels or boxes so provided, and any person who shall knowingly or willfully break or destroy any of such wheels or boxes, while the same contain the names of jurors as hereinafter provided, or who shall unlawfully take or

remove therefrom any name therein contained, or who shall unlawfully insert or put therein any name of any person, except as provided by the terms of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than one hundred dollars nor more than one thousand dollars, in the discretion of the court.

SEC. 8. It shall be the duty of the clerk of the district court to transcribe the names delivered to him by the judge of the district court, his assistant and the assessor, as required by section 2 of this act, upon slips of plain white paper, two inches long, and a half an inch wide, not more than one name on each slip of paper, and having so transcribed the name, to fold said slips in a uniform way in such a manner that no part of the names so written upon any one of said slips of paper can be seen without unfolding the same, and in the presence of the district judge and such citizens as shall desire to be present, to insert the said slips in one of the wheels or boxes provided by this act, to be furnished by the county commissioners, and to securely lock and seal the said wheel or box and deliver the key thereof to the judge of the district court. The box in which the names of persons liable to jury duty are first placed, shall be marked "Jury Box No. 1, county of " and the other box shall be marked "Jury Box No. 2, county of ;"

SEC. 9. Not less than ten days nor more than thirty days before the first day of any regular term of each district court to be held in any county of this Territory, it shall be the duty of the judge of the district court, with the assistance of the clerk of his court, and in the presence of such citizens of the county as shall desire to be present, to draw from the said wheel or box, a sufficient number of names from which to constitute the grand jury, and a sufficient number from which to constitute a petit jury, and the slips of paper containing the names so drawn shall be by the clerk, after transcribing the same upon venires for grand and petit jurors, sealed up in an envelope, properly indorsed and preserved until the jurors shall be regularly impaneled for such term of court: *Provided, however,* That the district judge may, in his discretion, draw for grand jurors six names in excess of the number required by law to constitute a grand jury, and not exceeding thirty-four names to constitute a petit jury: *And provided further,* That the names so drawn shall be set down upon the list in the order in which they are

drawn from the wheel or box: *And provided further*, That if a number more than sufficient for the organization of the respective juries shall be summoned by the sheriff or shall be present, the juries shall be made up of the persons so present, in the order in which their names are drawn from the wheel or box.

SEC. 10. Any persons summoned as jurors under the provisions of this act shall not be excused from service by the district judge except for good and sufficient reasons. If it shall appear to the judge of the district court that any person whose name shall be found in the wheel or box containing the name of the jurors is not qualified under the laws of this Territory to serve as a juror, or that such person is not a person of good moral character, the judge of the district court may cause the name of any such person or persons to be taken from the list and the slip or slips containing the name or names of such person or persons to be destroyed, when drawn in the regular course.

SEC. 11. When the jury shall have been regularly empaneled for the term, all those slips of paper containing the names of those persons impaneled upon the grand and petit juries shall be deposited in the wheel or box No. 2, and checked off on the list in the clerk's office. The said wheel or box No. 2 shall be securely locked, sealed, and the key thereof delivered to the judge of the district court, as provided with reference to box No. 1. The slip or slips of paper containing the name or names of person or persons not found, or excused by the court, shall be returned to box No. 1, and the said box No. 1 shall again be securely locked, sealed and the key thereof delivered to the judge of the district court.

SEC. 12. If a vacancy shall occur in the regular panel of the grand or petit juries, the same shall be filled by drawing as herein provided for the drawing of the juries for the regular venire, and when talesmen are required in any case, they shall in like manner be drawn from the box: *Provided*, That the district judge may in his discretion return to the box the names of any person drawn to fill a vacancy or as a talesman, who in the opinion of the judge resides so far from the place where the court is held as to render it inexpedient to summon such person, but the slip of paper containing the name of any person who shall be drawn to fill a vacancy, or as a talesman, and who shall

serve in such capacity, shall be checked off and placed in box No. 2, there to remain until box No. 1 is exhausted.

SEC. 13. Grand and petit juries for the investigation and trial of causes arising under the laws of the United States shall be drawn from the wheels or boxes of the several counties comprising the judicial district in which the court is held for that purpose, the number from each county to be in proportion to the whole number of persons subject to jury duty in the respective counties, and vacancies in the panels of such juries and talesmen in such cases shall be drawn as hereinbefore provided.

SEC. 14. No person shall be eligible to serve as a juror in the several district courts of this Territory, unless his name shall be drawn from the box as provided by this act, and no person who has served as a juror and whose name has been placed in the box or wheel number 2, shall be again eligible to serve as a juror until all names contained in wheel or box number 1 shall have been drawn out. When the names in box or wheel number 1 shall have been exhausted, the juries shall be drawn from box or wheel number 2, and the names of persons serving as jurors shall be returned to box number 1, and juries shall be made up from time to time by drawing from the one box or wheel and putting in the other, and as fast as one box or wheel is exhausted the other shall be resorted to, but both of said boxes shall be at all times, when jurors are not being drawn or names put in, kept securely locked and sealed, and the keys thereof shall be kept in possession of the district judge.

SEC. 15. After the making of the first list provided by this act, it shall not be necessary that a new list should be made out, but they may annually revise the list by striking off the names of all persons who have departed this life, or who for any other reason shall have become disqualified, and by adding thereto the names of such persons as shall have become qualified, and the names of all persons added to the list shall be transcribed upon slips of paper in the manner prescribed by section 8 of this act. The names of persons who have departed this life or who have become otherwise disqualified shall remain in the box until drawn out in the regular course, and shall be then destroyed.

SEC. 16. In case of absence or inability to act on the part of the district judge in drawing any regular panel of jurors under the provisions of this act, the district judge shall appoint two reputable citizens, not more than one of whom shall be of

the same political party, to whom he shall deliver the key to the proper wheel or box, and they shall carefully examine the seals and lock of the box, and having opened the same, shall proceed to publicly draw the jurors provided for by this act, and they shall as soon as possible return the said key to the district judge. Such persons when so appointed by the district judge shall, before opening the wheel or box, take and subscribe an oath faithfully and impartially to perform their duties under this act, and having drawn the jurors, shall file with the clerk of the district court an affidavit that they have publicly drawn the number of jurors authorized by this act and no more, that a correct list showing the order in which the names came from the wheel or box has been made by the clerk in duplicate, and that they have locked and sealed the box and will deliver the key thereof, together with one of the duplicate lists of grand and petit jurors, to the district judge, and until such delivery is made, they will not open, nor suffer or permit any other person to open, the said wheel or box. The names of the persons drawn as jurors under this section shall be in all respects treated and dealt with in the same manner as if drawn by the district judge.

SEC. 17. Any judge of the district court, assistant or assessor, who shall knowingly or willfully omit from the said list the name of any person who is under the laws of this Territory a qualified juror, or who shall knowingly and willfully put upon the said list the name of any person who is not a qualified juror under the laws of this Territory, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding one thousand dollars, in the discretion of the court.

SEC. 18. The district judge may in term time, in open court, or in vacation while in the county, after giving five days notice of place and time of hearing, by posting at least five hand bills in public places at the county seat, hear motions which may be made by any citizen to correct the said jury lists by adding thereto the name of any person who is a qualified juror, and whose name has been omitted, or by striking therefrom the name of any person who is not a qualified juror, and if it shall appear to such judge that any error has been committed in making up the said list, he shall cause the same to be immediately corrected in open court, and an entry thereof to be made in open court upon the minutes of the court: *Provided, however,*

That if a name be stricken off under the provisions of this section, the slip shall remain in the box or wheel until drawn out in due course and shall then be destroyed, but if any name or names be added, such name or names shall be immediately placed in the proper box.

SEC. 19. Before any drawing of names from any jury box under the provisions of this act, the wheel or box shall be thoroughly revolved or shaken so as to mix the slips of paper containing the names therein, and as the drawing proceeds the said wheel or box shall be revolved or shaken so as to change frequently the relative positions of the said slips of paper.

SEC. 20. Any officers charged with the duty of summoning jurors in any of the district courts of this Territory who shall willfully fail, refuse or neglect to summon any person whose name shall be placed in his hands to be summoned as a juror, and any such officer who shall make a false return upon any venire of grand or petit jurors, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding one hundred dollars, in the discretion of the court.

SEC. 21. Every officer to whose hands shall come any venire for jurors who shall be unable to summon any person whose name shall be found on any such venire, shall state in his return what efforts he has made to find any such person, and any such return shall be deemed and held by the court to be insufficient if it shall not appear that the officer in his effort to serve such person has visited at least the usual place of abode of such person, if such person shall have a usual place of abode in the county, and in every such case it shall be the duty of the officer to use extraordinary diligence to serve all persons whose names are found upon any such venire, and to make return of that fact to the court.

SEC. 22. The grand juries provided for by this act shall consist of twenty-one persons, and the petit juries shall consist of twenty-four persons, and twelve grand jurors shall concur in finding an indictment.

SEC. 23. In the district court for each county in the Territory, when in the opinion of the judge thereof it shall be necessary to summon juries, the grand jury shall have twenty-one members, of whom the concurrence of not less than twelve shall be necessary to the finding of any indictment; and the panel of

petit jurors shall consist of twenty-four members. The qualifications and manner of selecting and drawing such jurors shall be as provided by the law of 1887, Chapter 51, but they shall be selected and drawn from the body of the county for which the court is held: *Provided*, That this section shall not apply after August 1, 1891, except for special terms of court.

SEC. 24. In the district court for each judicial district in the Territory, in which causes arising under the constitution and laws of the United States are cognizable, the number of grand jurors shall be twenty-one, of whom the concurrence of not less than twelve shall be necessary to the finding of any indictment, and the panel of petit jurors shall consist of twenty-four members. The qualifications and manner of selecting and drawing such jurors shall be as provided by the law of 1887, Chapter 51, but they shall be selected and drawn from the body of the said district: *Provided*, That this section shall not apply after August 1, 1891, except for special terms.

SEC. 25. At any term of any district court of either class, if jurors have not been selected for said term as required by this act, it shall be the duty of the court forthwith to proceed to the selection and summoning of such jurors in such manner as provided by the law of 1887 to meet such contingencies: *Provided*, That this section shall not apply after August 1, 1891, except for special terms.

SEC. 26. When any district court, in which causes arising under the constitution and laws of the United States are cognizable, begins at the same time as the district court for the county in which the first named court is held, after the first six days of such concurrent terms, preference shall be given to causes arising under the laws of the Territory.

SEC. 27. The venire for any jury may be made returnable upon such day of the term of the district court as the judge thereof in his discretion shall determine.

Section 24. [28.] This act shall take effect and be in force from and after August 1, 1891, except as to said sections 23, 24, 25, 26 and 27, which shall take effect immediately.

JOINT RESOLUTIONS.

JOINT RESOLUTION.

No. I.

PRINTING GOVERNOR'S MESSAGE. *Approved January 8, 1891.*

Resolved (if the House of Representatives concur), That 1,500 copies of the Governor's message be printed in Spanish, 500 for distribution by the Governor, and 1,000 for the use of the Legislature.

JOINT RESOLUTION.

No. II.

EXAMINATION OF BOOKS OF AUDITOR AND TREASURER. *Approved January 21, 1891.*

WHEREAS, For the purpose of legislating intelligently respecting the finances of this Territory, it is necessary that this Legislative Assembly be informed as to the financial condition of the Territory; now, therefore

Be it resolved, By the Legislative Assembly of the Territory of New Mexico, that a special committee be appointed, three on the part of the Council, and three on the part of the House of Representatives, for the purposes hereinafter named:

Resolved, That such joint committee be and it is hereby instructed at its early convenience to examine the books of the Auditor and Treasurer of this Territory and to report the con-

dition of the same, with such recommendation as such committee may deem proper, and to report the same to the respective Houses of this Assembly, with all convenient speed.

Resolved, That said committee may, if it be deemed necessary to aid it in its examination, employ an expert accountant at a compensation of not more than five dollars per diem.

JOINT RESOLUTION

No. III.

APPROPRIATION FOR PAY OF EXTRA EMPLOYEES. *Approved* *January 31, 1891.*

Be it resolved, by the Council and House of Representatives of the Legislative Assembly, that there be and hereby is appropriated so much money as may be necessary to pay the employes of the present Legislative Assembly who are not paid by the United States, for twenty days time each, to be paid on the certificate of the Chief Clerk of the respective houses where the employe may be engaged, by the warrant of the Auditor, which shall be paid out of any surplus belonging to the court fund of the forty-first fiscal year. Such employes to be paid as follows, to wit:

Interpreters, six dollars per day each.

Translators, six dollars per day each.

Assistant translators five dollars per day each.

Pages two dollars per day each, and all other employes four dollars per day each.

Each employe to be paid from and including the first day of his employment and for the actual time of such employment, not exceeding twenty days for the present.

JOINT RESOLUTION.

No. IV.

COMMISSION TO VISIT WASHINGTON IN THE INTEREST OF LEGISLATION TO ADJUDICATE PRIVATE LAND CLAIMS. *Approved February 5, 1891.*

Joint Resolution of the Council and House of Representatives of the Legislative Assembly of the Territory of New Mexico.

WHEREAS, There is now pending before the Senate of the United States a bill which has passed the House of Representatives of the Congress of the United States, providing for the creation and organization of a court to adjudicate and pass upon the validity of the private land claims in the Territories of New Mexico and Arizona, and the State of Colorado, said bill being known as the "Wickham Bill;" and

WHEREAS, It is very desirable and greatly to the interest of the people of the Territory of New Mexico that said bill, with a slight modification, should become a law at the present session of Congress; therefore

Be it resolved, That the Congress of the United States is hereby earnestly urged and requested to enact said bill into a law, with such change in the provision thereof that all private land claims in the Territory of New Mexico may be investigated, heard and finally determined in the Territory of New Mexico without the necessity of our people going beyond the limits of the Territory to procure counsel to attend to their claims; and be it

Further resolved, That the Governor of the Territory of New Mexico be and he is hereby authorized and required to appoint six able, efficient and energetic citizens of the Territory of New Mexico, with instructions and authority to them to proceed at once to the city of Washington on behalf of this Territory and our people, and urge upon the Senate of the United States the passage of said bill with the modification aforesaid: *Provided*, That not more than three of said persons so to be appointed shall belong to the same political party;

Be it further resolved, That for the purposes of defraying the

expenses of the said persons above provided to be appointed, there be and hereby is appropriated the sum of nine hundred dollars, to be paid out of any surplus of any funds in the treasury of the Territory, after deducting any previous appropriations made against such fund, said payment to be made upon the warrant of the Auditor drawn on the Treasurer against such fund, after the said persons so to be appointed shall render to the said Auditor a true and correct statement, under oath, of the expenses incurred by them in going to and returning from said city of Washington and remaining there.

JOINT RESOLUTION

No. V.

REWARD FOR PERSONS ATTEMPTING THE ASSASSINATION OF HON. J. A. ANCHETA. *Approved February 6, 1891.*

WHEREAS, On the night of February 5, 1891, a most dastardly outrage was perpetrated in the town of Santa Fe in the attempted assassination of the Honorable J. A. Ancheta and other members of the 29th Legislative Assembly; and

WHEREAS, It is the sense of this house that the perpetrators of this outrage should be speedily discovered and punished; now therefore,

Be it resolved, By the House of Representatives of the 29th Legislative Assembly, the Council concurring, that the Governor be and he is hereby requested to offer a reward of twenty thousand dollars for the capture and conviction of the guilty parties; and be it further

Resolved, That upon the certificate of the Governor, the Auditor is instructed to issue his warrant upon the Territorial Treasurer for said amount, to be paid out of any funds in the treasury, until a special appropriation is made for such purpose.

JOINT RESOLUTION.

No. VI.

GRAVEL WALKS FROM CAPITOL GROUNDS TO RIO SANTA FE.
Approved February 10, 1891.

Be it resolved, By the Legislative Assembly of the Territory of New Mexico, that the Superintendent of the Penitentiary is hereby authorized and required to construct gravel walks on all avenues leading from the Capitol building as far north as the Rio Santa Fe, and to detail a sufficient number of prisoners to have the work done without unnecessary delay.

JOINT RESOLUTION.

No. VII.

DEATH OF SECRETARY OF THE TREASURY—IN MEMORIAM. *Approved February 10, 1891.*

TERRITORY OF NEW MEXICO,
29TH LEGISLATIVE ASSEMBLY,
SANTA FE, February 3, 1891. }

*To the President of the United States, and Family of Hon.
Wm. Windom, Deceased, Washington, D. C.*

Be it resolved, By the Legislative Assembly of New Mexico, both Council and House of Representatives, that it is with most profound sorrow and regret that the news has been received by the representatives of the people of New Mexico of the death of the Secretary of the Treasury of the United States, Hon. Wm. Windom, and that this body by joint resolution tenders its heartfelt sympathy and that of the people of New Mexico to the President of the United States and also to the family and personal friends of our honored secretary and to all the people of the American Nation.

JOINT RESOLUTION.

No. VIII.

FOR THE CONTINUANCE OF THE POST OF FORT MARCY. *Approved February 17, 1891.*

WHEREAS, It is represented that the Secretary of War has ordered the abandonment of this post, Fort Marcy, at Santa Fe; and

WHEREAS, The Legislative Assembly of the Territory of New Mexico, representing the public sentiment of said Territory, are impressed that there are grave and strong considerations of public policy that require the maintenance of this time-honored and historic garrison as long as troops are assembled in the southwest; therefore

Be it resolved, That the President of the United States, Secretary of War and Commanding General of the Army of the United States be and they are hereby earnestly appealed to to suspend the execution of said order until opportunity shall have been given for the presentation of the reasons of the people for the continuance of said post.

Resolved further, That a copy of this resolution be wired to the President, Secretary of War and the Commanding General.

JOINT RESOLUTION.

No. IX.

ON THE DEATH OF GENERAL WILLIAM T. SHERMAN. *Approved February 18, 1891.*

TWENTY-NINTH LEGISLATIVE ASSEMBLY, }
TERRITORY OF NEW MEXICO. }

WHEREAS, These bodies have learned with deep sorrow of the death of General William T. Sherman, of the United States Army, they deem it but a fitting tribute to the memory of the illustrious dead to pause in their deliberations for the welfare

of the Territory and officially note the end of one to whom as much as any other, under the Providence of God, the nation owes its existence and unity to-day. Not only from Atlanta to the sea, but from the Atlantic to the Pacific, from the British border to the Gulf of Mexico, did the distinguished dead wear his country's uniform and bear its flag, with honor to himself and it. For more than fifty years the name of Sherman was on the army list, and never shade of reproach came to mar its luster; thrice did Congress thank him in the name of all the people of the Union for his great service to them, and added honor upon honor until he reached the highest point of his ambition, that of General of the Army, than which he sought no greater. Civil honors and preferment had no charm for him; his inclination and training was entirely in his profession.

By his death the United States has lost the last of the great chieftains of the greatest war of modern times, and death, coming as it did to him, so soon after that of his great ally on the sea, gives the greatest shock to the country.

General Sherman was a true American in every sense of the word. Born of the people when the country was new and crude, he had the sturdy manhood and self-reliant nature which has made him what he was, and his memory to be revered so long as his nation's flag has any significance or meaning.

Be it resolved, By the Council and House of Representatives of the twenty-ninth Legislative Assembly of the Territory of New Mexico, that the sincere sympathy of these bodies, representing the people of New Mexico, be extended to the family of the deceased General in its bereavement.

That these resolutions be spread upon the journals of these bodies and an engrossed copy thereof be sent to the family of the deceased and to the head quarters of the Army.

That the House of Representatives of this Territory, now in session, be notified of this action, and that out of respect to the memory of the gallant dead, this Council do now adjourn.

JOINT RESOLUTION.

No. X.

PAY OF EXTRA EMPLOYES IN LEGISLATIVE ASSEMBLY. *Approved*
February 11, 1891.

Be it resolved, By the House of Representatives and the Council of the Legislative Assembly, that there be and hereby is appropriated so much money as may be necessary to pay the employes of the present Legislative Assembly who are not paid by the United States for twenty days time, each to be paid on the certificate of the Chief Clerk of the respective Houses, where the employe may be employed, by the warrant of the Auditor, which shall be paid out of any surplus belonging to the court fund of the forty-first fiscal year; such employes to be paid as follows, to-wit:

Interpreters, six dollars per day each.

Translators, six dollars per day each.

Assistant translators, five dollars per day each.

Pages two dollars per day each.

Assistant chief clerks and journal clerks, five dollars per day each.

And all other employes four dollars per day each.

Each employe to be paid from and including the 18th day of January, 1891, and for the actual time of such employment, not exceeding twenty days for the present.

JOINT RESOLUTION.

No. XI.

PAY OF LEGISLATIVE EMPLOYES. *Approved February 26, 1891.*

Be it resolved, By the House of Representatives and Council of the 29th Legislative Assembly of the Territory of New Mexico, that there be and hereby is appropriated so much money

as may be necessary to pay the employes of the respective houses who are not paid by the United States, the employes in each of the houses to be paid for each day, including the day of their appointment, as follows:

Interpreters at eight dollars per day each.

Translators at seven dollars per day each.

Assistant translators, assistant chief clerks, journal clerks at six dollars per day each.

Reading clerks, copying clerks, assistant enrolling and engrossing clerks, assistant sergeant-at-arms, and door keepers at five dollars per day each.

Pages at two dollars and fifty cents per day each.

And all other clerks and employes at four dollars per day each.

Provided, That the amount that has heretofore been paid each or any of the clerks or employes shall be deducted from the full amount that shall be due each or any of them at the rates above specified; said employes to be paid on the certificates of the Chief Clerks of the respective houses where the employes may be employed, and upon presentation of such certificate to the Auditor of the Territory by the person to whom it was issued; the Auditor is hereby directed to take up said certificate and issue his warrant on the Territorial Treasurer for the amount as specified in said certificate, and the Treasurer is hereby ordered to pay the same out of any surplus in the court fund for the forty-first fiscal year; and

Be it further resolved, That the sum of two hundred and twenty dollars be and hereby is appropriated out of any surplus in the court fund for the forty-first fiscal year, to pay the President of the Council and Speaker of the House of Representatives the sum of six dollars per day each for five days after the adjournment of the 29th Legislative Assembly, and to pay the Chief Clerk of the Council and Chief Clerk of the House six dollars per day each; also to pay the Journal Clerks, Assistant Chief Clerks of each house five dollars per day each for five days after the adjournment of said Legislative Assembly: *Provided*, That each of said officers and clerks shall remain at the capital during the said time and clean up and dispose of all unfinished business of the session of said Legislative Assembly, and a certificate shall be given in favor of any officer or clerk entitled thereto for the full amount, signed by the President of the Council or Speaker of the House; said certificate, upon pre-

sentation to the Auditor of the Territory, shall be taken up, and he shall issue his warrant in favor of the person presenting the same for the amount specified in such certificate on the Territorial Treasurer, who shall pay the same out of the funds appropriated for that purpose.

JOINT MEMORIALS.

JOINT MEMORIAL.

No. I.

FREE COINAGE OF SILVER. *Approved January 16, 1891.*

To the Members of the Senate and House of Representatives in Congress Assembled.

Your memorialists, the Legislative Assembly of the Territory of New Mexico, now in session assembled at Santa Fe, most respectfully memorialize your honorable bodies that the present financial policy of this Government in maintaining gold as the single money metal, resulting in the hoarding of the nation's wealth in the financial centers, and placing the country under tribute to Wall Street, is rapidly paralyzing the industries of this Territory, causing stagnation in all business enterprises, and can not but result disastrously to our every interest, be it mining, manufacturing, agricultural or commercial. Hence we most respectfully request that by proper legislation providing for free and unlimited coinage of silver, this money metal be at once restored to its natural position upon an equality with gold, and the injustice done by the Acts of 1873 in some measure atoned for by the establishment of a bi-metallic standard in 1891; and your memorialists will ever pray.

Be it resolved, By the Legislative Assembly of the Territory of New Mexico, that the Secretary of this Territory be and he

is hereby requested to cause a copy of this memorial to be mailed to our Delegate in Congress, the Honorable Antonio Joseph, with the request that he present the same to the proper committee of the House of Representatives of the Congress of the United States, and further that he mail a copy to Senator Stewart, of Nevada, with the request that he present the same to the Senate of the United States.

JOINT MEMORIAL.

No. II.

PROTEST AGAINST CERTAIN FEATURES OF PENDING LAND COURT BILL. *Approved January 16, 1891.*

To the Senate and House of Representatives of the United States in Congress Assembled.

WHEREAS, There is urgent necessity for the enactment by the Congress of the United States of a law establishing a court or tribunal whose duty it shall be to hear and determine as to the validity, character and extent of claims made to lands by communities and private individuals within the Territory of New Mexico, and which are based upon grants or concessions alleged to have been made by the governments of Spain and Mexico; therefore,

Be it resolved, By the Legislative Assembly of the Territory of New Mexico, that the Congress of the United States be and it is hereby requested to enact at once a law that will create a court or tribunal with power to hear and adjudicate all such claims in a prompt and speedy manner, and the general features of the bill upon this subject that was lately passed by the lower house of Congress meets with the commendation of this body, but this body most earnestly protests against such portions of such bill as provide that the court thereby created shall sit or hold any of its sessions in the city of Washington, believing that if such a provision is retained in the bill and the same becomes a law, great injustice would be done to a large number of claimants in this Territory, and that if they shall be compelled to present their claims before a court or tribunal in Washington

city, the necessary cost and expense in doing so would be a practical denial of the right, and their claims would of necessity have to be abandoned.

Resolved, That a copy of this memorial be forwarded to the Hon. Antonio Joseph, delegate in Congress from this Territory, with a request that he present the same to the Senate and House of Representatives, and also that a copy thereof shall be sent to the President of the United States, Speaker of the House of Representatives and President of the Senate.

JOINT MEMORIAL

No. III.

STATEHOOD. *Approved February 11, 1891.*

To the Senate and House of Representatives of the United States in Congress Assembled.

Your memorialists, the Legislative Assembly of the Territory of New Mexico, now in session at Santa Fe, most respectfully represent that

WHEREAS, By the treaty of Guadalupe Hidalgo, made between the United States and the Republic of Mexico on the 2nd day of February, A. D. 1848, by which treaty the Territory of New Mexico was ceded to the United States, it was solemnly declared that at the proper time such Territory should be incorporated into the Union and clothed with all the powers of a sovereign State; and

WHEREAS, According to the census taken in 1890, it is shown that the population of this Territory is near 160,000, exclusive of Indians, and it is the general belief, founded upon good grounds, that the actual population was much larger; and

WHEREAS, The assessed taxable property of the Territory for the year 1890, was near forty-seven millions of dollars; and

WHEREAS, More than 225,000 head of cattle were sold and shipped out of the Territory during the year 1890; and

WHEREAS, 750,000 head of sheep, and ten million pounds of wool were sold and shipped out of the Territory during the same period; and

WHEREAS, During the year 1890 the output of the mines of the Territory exceeded the sum of four millions of dollars; and

WHEREAS, There are over five hundred public schools within the Territory with an attendance of 27,000 pupils, besides numerous private schools of high and low grades; and

WHEREAS, During the past few years great progress has been made in bringing under irrigation large areas of lands by companies organized for such purpose, as well as by private individuals; and

WHEREAS, The resources of this Territory are almost unlimited; and

WHEREAS, To properly develop the resources of this Territory immigration and capital are needed; and

WHEREAS, People are loth to immigrate and settle in a country under territorial government, and capitalists are suspicious of the safety of investment in Territories; and

WHEREAS, This Territory has built at Santa Fe a suitable and commodious building to be used as a capitol building, and has also erected penitentiary buildings suitable for such purpose; and

WHEREAS, Within the past few years there have been admitted into the Union as States, Territories not having more than one-half of the population that this Territory contains, and that do not possess near the natural wealth and resources of this Territory; now therefore

Be it resolved, By the Legislative Assembly of the Territory of New Mexico; that justice to the people of this Territory imperatively demands that the Territory be admitted into the Federal Union as a State upon an equal footing with the other States at as early a day as it can properly be done, and the Congress of the United States is hereby respectfully requested to pass an act calling a convention to meet in the Territory at an early day for the purpose of forming a constitution preparatory to the admission of the Territory as a State, and that such act shall provide the number of delegates that each county shall be entitled to in such convention, and shall also designate the time and place of the assembling of such convention.

Be it further resolved, That the Chief Clerks of the Council and of the House of Representatives are hereby directed to transmit copies of this memorial to the Hon. Antonio Joseph, our Delegate in Congress, and through him to the President of

the United States and to the President of the Senate and to the Speaker of the House of Representatives of the United States.

JOINT MEMORIAL.

No. IV.

RESPECTING NAVAJO INDIANS. *Filed February 17, 1891.*

To the Senate and the House of Representatives of the United States, in Congress assembled:

Your memorialists, the Legislative Assembly of the Territory of New Mexico, now in session assembled at Santa Fe, most earnestly and respectfully pray that

WHEREAS, For a number of years, and more particularly during the last eighteen months, the Navajo Indians have been permitted to leave their reservation and to roam at will, and while off their reservation they steal and kill for food large numbers of cattle and drive off to their reservation numbers of horses belonging to the people resident in the counties adjoining their reservation; and

WHEREAS, It is estimated that within the last eighteen months, in the counties of Bernalillo, Valencia, San Juan and Rio Arriba alone, these Indians have stolen or destroyed at least three thousand head of cattle and driven off more than four hundred horses within the limits of their reservation, whence it is impossible for the settlers and ranchmen to recover, or even to recover justice in any way at the hands of the Indian Agent; and

WHEREAS, To permit these Indians to run at large and prey upon the ranchmen and settlers, as they now do, will surely result in trouble and perhaps precipitate a disastrous war with these Indians, which would cause this Territory to suffer incalculable loss and damage; and

WHEREAS, These Indians excuse their absence from their reservation upon the ground that they are permitted by law to sever their tribal relations and take up land in severalty, but merely make such temporary abode off their reservation and at such points as will prove most convenient for them to commit

such depredations, to the detriment of the citizens of the Territory; and

WHEREAS, It is notorious that the agents and inspectors sent out by the Government are imposed upon by a surface show of facts, and are made to believe that these Indians make a permanent abode of certain houses off the reservation, which were built as a pretext and are only inhabited periodically; and

WHEREAS, It is believed and experience has proven that Indians are better cared for and better kept in control by military authority than by civil agents, as is the present practice;

Now, therefore, your memorialists respectfully urge that the care and control of the Navajo Indians be transferred from civil to military agents, and that such steps be immediately taken as will most effectually keep these Indians within the boundaries of their reservation and afford full protection to the rights and property of the settlers and ranchmen in the neighborhood of such reservation; therefore,

Be it resolved, By the Legislative Assembly of the Territory of New Mexico, that the Governor of this Territory be and he is hereby requested to cause copies of this memorial to be mailed to our Delegate in Congress, the Hon. Antonio Joseph, with the request that he present the same to the President of the Senate and to the Speaker of the House of Representatives and to the Hon. the Secretary of the Interior.

JOINT MEMORIAL.

No. V.

PROMOTION OF GENERAL EUGENE A. CARR. *Approved February 18, 1891.*

To the President of the United States.

Your memorialists, the Legislative Assembly of the Territory of New Mexico, now in session at Santa Fe, most respectfully submit for your earnest consideration the following memorial:

WHEREAS, General Eugene A. Carr, now in command of the 6th cavalry regiment, having been in almost continuous active military service since the year 1850, and during that period hav-

ing rendered most arduous and invaluable services to his country, such services, prior to the breaking out of the late civil war, consisting of numerous battles and raids against the hostile Indians in the western States and Territories, during a series of several years, which service was both arduous and dangerous; and for the gallant, intrepid and successful manner in which he discharged all his duties he was complimented by his superiors and promoted in the service; and upon the inauguration of the civil war between the northern and southern States, General Carr entered upon the discharge of his duties as a captain and was engaged in numerous battles in southwestern Missouri, Arkansas and Mississippi, taking an active and conspicuous part in the capture of Vicksburg, in all of which service he discharged his duties as a brave and gallant officer, discharging his perilous duties with marked ability and judgment, the many honorable wounds received by him in such service testifying to his bravery and fearlessness, and as a recognition of his meritorious services he was made a brevet brigadier general and a brevet major general; and,

WHEREAS, Since the close of the late civil war General Carr, during a large portion of the time, has been in command of the department of New Mexico, and in command of the 6th cavalry regiment, ranking as a colonel in the regular army, and during such period he has rendered most valuable services in protecting the inhabitants of New Mexico from the ravages of the hostile Indians, showing marked and peculiar ability in the management of Indian affairs and in securing protection to the persons and property of the inhabitants of his department; for which services the people of New Mexico feel most profoundly grateful, and desire in this manner to testify their appreciation of his invaluable services; now therefore

Be it resolved, By the Legislative Assembly of the Territory of New Mexico, that the President of the United States be and he is hereby most earnestly and respectfully requested that at the earliest practicable period consistent with the public interests he will exhibit an appreciation of the long continued, arduous, distinguished and valuable services rendered by General Eugene A. Carr to his country, by nominating and appointing him to such a position in the army of the United States as will be a suitable tribute for such meritorious service.

Resolved, That upon the passage of this memorial the Secre-

tary of the Territory of New Mexico be and he is hereby requested to transmit duly certified copies hereof to the President of the United States and to General Eugene A. Carr.

JOINT MEMORIAL.

No. VI.

RELATIVE TO USE OF PUBLIC DOMAIN FOR RESERVOIR AND RIGHT OF WAY FOR IRRIGATING DITCHES TO FIRST NEW MEXICO RESERVOIR AND IRRIGATION COMPANY. *Filed by the Governor February 25, 1891.*

Memorial to the Senate and House of Representatives of the United States in Congress Assembled:

Your memorialists, the Legislative Assembly of the Territory of New Mexico, now in session assembled at Santa Fe, most earnestly and respectfully memorialize your honorable bodies of the urgent necessity for immediate legislation in reference to and for the relief of the First New Mexico Reservoir and Irrigation Company and the settlers upon the public domain under its proposed reservoirs, located in the county of Chaves, in the Territory of New Mexico.

WHEREAS, The Congress enacted a law, October 2, 1888, that part of which appertains to the subject herein is as follows:

“And all the lands which may hereafter be designated or selected by such United States surveys for sites for reservoirs, ditches or canals for irrigation purposes, and all the lands made susceptible of irrigation by such reservoirs, ditches or canals, are from this time henceforth hereby reserved from sale as the property of the United States, and shall not be subject after the passage of this act to entry, settlement or occupation until further provided by law.”

WHEREAS, The Congress of the United States, June 30, 1890, enacted an amendment to the law of October 2, 1888, that part of which appertains to the subject herein is as follows:

“An act making appropriations for sundry civil expenses of the government for the fiscal year ending June 30, 1889, and

for other purposes, as provides for the withdrawal of the public lands from entry, occupation and settlement, is hereby repealed and all entries made or claims initiated in good faith and valid but for said act, shall be recognized and may be perfected in the same manner as if the said law had not been enacted, except that reservoir sites heretofore located or selected shall remain segregated and reserved from entry or settlement as provided by said act, until otherwise provided by law, and reservoir sites hereafter located or selected on public lands shall in like manner be reserved from the date of the location or selection thereof."

WHEREAS, The Territory of New Mexico, under a law enacted by its legislature during the session of 1887, granting charters to reservoir and irrigation companies, did grant to the First New Mexico Reservoir and Irrigation Company a charter conferring upon it the following power and privileges, to wit:

"The right and privilege of locating its main reservoirs in township (11) eleven and (12) twelve south, of range (22) twenty-two east, of the New Mexico principal meridian; the beginning point of the main canal shall be in section (26) twenty-six, township (11) eleven south, of range (22) twenty-two east, of the principal meridian, and the terminus of said main canal shall be in township (13) thirteen south, of range (23) twenty-three east, of the New Mexico principal meridian; and the length of said main canal shall be about twelve miles in a southerly direction, situated on the Rio Hondo, near Roswell, in the county of Chaves, Territory of New Mexico. The purposes for which said company is formed are to construct and maintain reservoirs and canals for the supplying of water for the purpose of irrigation."

WHEREAS, In faithful compliance with the charter, the company immediately took possession and surveyed the proposed sites. In March, 1890, the company raised money with which to build the necessary dams and canals, and at once proceeded with the development of its supposed property, and had invested in such work about ten thousand dollars, when the Attorney General of the United States published an opinion upon the law of 1888, which in effect declared all filings upon the public land within the arid region, and all possessions of reservoir sites obtained since the passage of the law by individuals or corporations, to be illegal. He claimed that the law reserved

such lands and such reservoir sites as the special property of the United States, and denied to its citizens the rights of entry, use or occupation thereof.

WHEREAS, Without a knowledge of the aforesaid law, and previous to the promulgation of the Attorney General's decision, the First New Mexico Reservoir and Irrigation Company, acting in good faith, had proceeded with the development of its reservoirs and had issued prospectuses, and had given assurances that water would be developed for the reclamation of arid land. The effect of this was to cause sixty thousand acres of public land to be filed upon for reclamation.

WHEREAS, Upon becoming acquainted with the law of 1888, and the Attorney General's opinion upon the same, the First New Mexico Reservoir and Irrigation Company at once stopped work, not wishing to invest a large sum of money in the development of a property that the United States reserved to itself and denied the right of entry, use or occupation to its citizens.

WHEREAS, Notwithstanding Congress had enacted an unjust law, inasmuch as it denied the right to occupation, use and settlement of the public lands, but still continued to receive the filings and filing fees from such settlers as desired to make entry to the same, and in this way did accept millions of acres of illegal filings.

WHEREAS, Congress becoming aroused to the injustice of the law of 1888, and with the purpose of correcting the same, on the 30th of June, 1890, enacted an amendment which legalized the illegal filings which had been made, but only partially accomplished the object of correcting a wrong unintentionally inflicted upon the settlers, as it failed to release the reserved waterways and reservoir sites from entry, use and occupation, thereby placing an embargo upon the development of water necessary for the reclamation of arid lands, through the agency of individuals or corporations, and has made no provision, and is not likely to make any provision, for the development of water for irrigation and the reclamation of such lands.

WHEREAS, A government requirement is that the land entered shall be reclaimed by irrigation. The settler can not secure title to the land he has filed upon unless he has performed this requirement. By prohibiting the development of water for such purposes, and making no provision itself for such development, the government unjustly deprives the settler of the op-

portunity of fulfilling his obligation, and thereby enforces an abandonment and relinquishment of his claims to the government. Legalizing the filings upon the public lands does not secure justice to the settler, so long as the same law deprives him of the means of obtaining water for his land, necessary to meet the requirements of the government.

WHEREAS, Since the enforced cessation of work upon the reservoirs, on account of the aforesaid law of 1888, many settlers have become discouraged and have abandoned their claims. It is safe to state that out of the sixty thousand acres of land filed upon, forty thousand acres have already been abandoned and have reverted to the government, through the inability of the settler to secure water. Before the reservoirs now could be constructed and water furnished, the entire sixty thousand acres must be abandoned and must necessarily revert to the government. This enforced abandonment of claims is a result of a compulsory delay in the development of water caused by the law of 1888, and its amendment of August 30, 1890.

WHEREAS, Lands within the reservoir sites are desert and valueless, and the lands that would be reclaimed by the storage of water within these reservoirs are likewise desert and valueless. Irrigation would reclaim these lands and make them very valuable, and would encourage the settlement and improvement of that section.

WHEREAS, The law of October 2, 1888, and its inadequate amendment of June 30, 1890, has operated unjustly, causing loss, privation and suffering to intending settlers throughout that region. It has discouraged the investment of capital and retarded development and the settlement of that section. Now, therefore, for the foregoing reasons your memorialist prays that the Congress of the United States will grant to the First New Mexico Reservoir and Irrigation Company the right to occupy the public lands for reservoir purposes, and so much thereof as lies within the sites and is necessary for such uses, such lands to revert to the government whenever abandoned for the storage of water; and also grant to the aforesaid company the right of way through the public lands for its canals and irrigating ditches.

Your memorialist further prays that an extension of time equal to the delay caused in the development of water by the First New Mexico Reservoir and Irrigation Company on account of its cessation of work owing to the law of 1888 and the amendment

of 1890, be allowed to all settlers who had made entry to the public land depending upon their water supply from the aforesaid reservoirs.

Resolved, By the Senate of the Legislative Assembly of the Territory of New Mexico, the House of Representatives concurring therein, that the honorable Secretary of the Territory be and he hereby is required to send four certified copies of this memorial to the Hon. Antonio Joseph, our Delegate in Congress, with the request that he deliver one of said copies to the Chairman of the Senate Committee on Irrigation, and one to the Chairman of the House Committee on Irrigation, and one copy to the honorable Secretary of the Interior.

TERRITORY OF NEW MEXICO, }
OFFICE OF THE SECRETARY OF THE TERRITORY. }

I, Benjamin M. Thomas, Secretary of the Territory of New Mexico, do hereby certify that I have compared the foregoing printed acts, joint resolutions and memorials of the 29th session of the Legislative Assembly of the Territory of New Mexico, with the enrolled originals and original translations, on file in my office, and that the same appear to be true and correct copies thereof.

IN WITNESS whereof I have hereunto set my hand and affixed my official seal this first day of May, 1891.



BENJAMIN M. THOMAS,
Secretary.

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